

STATEMENT OF

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by the Committee on the Judiciary, Sub-Committee No. 5
at Washington, D. C., on April 10, 1967



LEON C. JACKSON

Mr. Chairman and Gentlemen of the Committee:

Thank you for the opportunity of appearing before you to express my opinion and the views of many collectors and sportsmen regarding the legislation on firearms control under consideration by your body. My name is Leon C. Jackson. I reside at 4308 Livingston Avenue in the town of Highland Park, Dallas County, Texas. My business, operating under the name of Jackson Arms, is located at 6209 Hillcrest Avenue in the city of University Park, Dallas County, Texas. This firm specializes in the sale of antique and museum-type weapons and a large proportion of its business is conducted by mail.

Officially here I represent at the request of their presidents:

The American Society of Arms Collectors
The Texas Gun Collectors Association
The Ark-La-Tex Gun Collectors Association
The Caddo Rifle and Pistol Club
The Caddo Sportsmen's Club
The Louisiana Shooters Association
The Louisiana Sportsmen's Association

and, by informal verbal request, some twelve other organizations altogether numbering about 25,000 of the country's millions of gun owning sportsmen and gun collectors. They represent almost every trade and profession including, in my own experience, members of this Congress, Chiefs of State, ministers, priests,

law enforcement officials, and many men of humble means but proud heritage.

In order to avoid repetitious testimony the bulk of my statement will concern the effect of the proposed legislation on gun collectors. This country achieved its freedom and its successful spread across the continent to the Pacific on a firm foundation of peculiarly American firearms in the hands of courageous men properly trained to use them. The serious collector is the preserver of that heritage. These people are neither "kooks" nor neo-Nazis, though efforts have been made by the anti-gun lobby to make them appear as such. Teacher-collectors often use early firearms to stimulate interest in American history. Such a physical memento can make history live and generate more interest than a mere printed page. The knowledge and appreciation of our heritage cemented into a living belief is the very essence of patriotism.

To understand the problem you must know how collectors acquire arms. The collector, far more than the average shooter, would be seriously hurt by the prohibition or curtailment of mail order purchase and interstate shipment. In order to acquire a representative collection, it is an absolute necessity that a collector have access to a nationwide market and trade with individuals as well as dealers. Often to fill a key spot, it is necessary to canvass the whole country due to the scarcity of some models. Even then sometimes money will not buy the object and only a mutually agreeable trade would accomplish its acquisition.

We I and the 25,000 or more sportsmen and collectors whom I represent - cannot accept the "Findings and Declaration" set forth in the premise of H. R. 5384, that the availability of firearms is a significant factor in crime. To accept such a philosophy, one would have to conclude that the mere possession of a gun would tempt an otherwise law abiding citizen to commit a crime. Could you seriously think, Gentlemen, that the millions of sportsmen, collectors and war veterans are potential murders, rapists and thugs? If you possess a gun - and many of you do - does that make you a potential criminal? This basic concept is so erroneous and non-American that, if you struck the whole bill and added only the Golden Rule, to the "Findings and Declaration," being founded on an unproven premise, would make whatever follows unacceptable.

I had the privilege of serving in World War II under General George S. Patton who constantly admonished his officers to make their orders so clear that the "dumbest" man in the outfit could understand them and that the smartest man in the outfit could not twist or mis-use them for his own benefit and purpose. I would

hope that you would apply a similar yardstick to any firearms legislation you favorably consider and ask yourself seriously these questions:

1. If it is enacted, can its stated purpose be accomplished?
2. Can the enforcing agency, through regulations, twist its meaning to serve a purpose not intended?
3. Would it inflict upon the law abiding private citizen a burden of red tape and harassment so obnoxious that it would cause him to abandon, at great personal loss, a perfectly legal and traditional occupation or hobby?

The proponents of this legislation say its purpose is to combat crime; yet there is nothing whatsoever in the bill that could or would prevent a criminal from obtaining a gun, for criminals do not use the normal course of trade. They will steal them, make them, or even rent them from the underworld. In one of Mr. James Bennett's films on this question, taken I believe, in the Illinois State Penitentiary, one of the prisoners was asked how he obtained a gun for a hi-jacking. He replied that he could rent a gun of any kind in Chicago, including already outlawed sub-machine guns or sawed-off shotguns, for a small fee or a percentage of the "take." This points up one of the real perils of this legislative approach. If you make firearms sufficiently contraband that it is profitable for organized crime to supply guns to the hoodlum, you will create a criminal situation that will make that of the Prohibition Era look like a Sunday School picnic.

Further, there is little in this bill that would punish the criminal if he did get a gun and used it for a criminal purpose. I point out to you, Gentlemen, that we have had a law on the books since 1938 making it a Federal offense for a person who has been convicted of an offense punishable by imprisonment for a term exceeding one year to even possess a firearm. By the Government's own statistics, more than 60 percent of criminal arrests are on subjects with criminal records and almost without exception they are armed. In the three jurisdictions which I have had an opportunity to observe closely, I have heard of one arrest under the law and no prosecutions. If the proposed law could be effective, why have those charged with enforcing existing law failed to do so? The United States Attorneys I have asked have said they will not make a police court out of a Federal District court. The police chiefs and sheriffs interviewed say it is futile to charge a thug under this Act because the United States Attorney will not prosecute. In all seriousness, I hope you ask yourself why the Department of Justice wants more laws when there is continuing failure to use a crime combating tool available to them right now.

In answer to my second question, the gun owner, and particularly the collector, has sound reason for real apprehension at the almost blanket regulatory authority given the Secretary of the Treasury. We have already had extensive experience with the capricious nature of regulations in this field under powers far less broad than those proposed. There are records of cases where a collector has been wrongfully arrested and charged with possessing a prohibited weapon. In a case that comes to mind, it was a rather innocent little oddity revolver for which ammunition has not been made since 1916. The case was tried in a Federal court in Southern California and the defendant acquitted with the judgement from the court that the firearm involved was a perfectly legal weapon. The Treasury Department accepts that ruling in Southern California but ignores it and attempts to prosecute owners of the same type of gun in other jurisdictions. I am in the ridiculous position where it is legal for me to buy and sell that oddity gun in Southern California but would subject myself to arrest and prosecution for having it or selling it in my place of business in Texas. This, I think, highlights another important issue. If the Treasury Department, charged with administering firearms laws in a just and lawful manner, itself evades the decisions of a Federal Court, what assurance of fair administration can the private citizen expect of vague, broad administrative powers given to that agency?

In another case, humorous if it were not tragic, a Pennsylvania collector was ordered to submit to the Department photographs of all his guns for a determination of whether or not they must be registered. Two pictures of the same gun - a flintlock blunderbuss, 200 years old - were submitted but the pictures taken from opposite sides of the weapon. The Department ruled that it must be registered on one side, but it was not subject to registration on the other side.

Many of you were in the Congress when the Department rewrote the Federal Firearms Act under the guise of new regulations and published it in the Federal Register in 1957. Only after lengthy hearings and vigorous protest from the sportsmen and many members of Congress were these regulations withdrawn. The clinching argument seemed to be that the Congress would not tolerate legislation by regulation.

I would expect you to ask me why collectors object when there is an exception in the proposed bill for antique guns and I would answer that the definition of antique firearms (Sub Paragraph (15) Section 921) is completely unrealistic. The date 1870 is not a transition date in the development of firearms and the exception would only apply to arms not capable of firing fixed ammunition. In the years immediately preceding and including the years of the Civil War, there was a rapid development of breech loading arms firing fixed ammunition. Included in this group was the Spencer Carbine which President Lincoln himself tested and ordered adopted for the Cavalry. It fires a completely obsolete and almost unobtainable cartridge. I understand that the gun Lincoln used and the target he fired is in the Smithsonian Institution. This is the gun about which it was originally said that it could be loaded on Sunday and fired all week. Yet Mr. Lincoln's gun would not be

an exception under this definition. The same is true of the Volcanic pistol of the early 1850's which was the lineal ancestor of both the Smith & Wesson handgun and the Winchester rifle. There are dozens of other arms of Civil War and pre-Civil War vintage that I could name that would also fall into this category; I cite these only as examples.

The famed Sharps rifle - the key arm of the Buffalo Hunter and the Western pioneer - would also lose its identity as a weapon of our heritage and be treated as a modern firearm. The arms carried by General Custer through the Civil War and in the Battle of the Little Big Horn are treated the same in this bill as a modern .44 Magnum.

The collectors have repeatedly offered language which we think would correctly define antique arms and obsolete arms of legitimate collector interest, which I now quote: "The term 'Antique Arm' means any firearm which was designed for use with loose powder and ball or which is incapable of being fired with self-contained, primed cartridges; and shall also include a firearm held as a curiosity or decoration, manufactured prior to 1898 which by its design would require cartridges of obsolete pattern no longer manufactured nor readily available through commercial channels."

There are two reasons for the selection of 1898 as the transition date. First, there is already a precedent in Federal Law. That is the date used in Section 414 of the Mutual Security Act of 1954, Title 22, Paragraph 123.51 which reads, and I quote, "Obsolete Small Arms: Subject to the provisions of Paragraph 123.03 collectors of customs are authorized to permit the importation or exportation without a license of small arms covered by Category I of the United States Munitions List, which were manufactured prior to 1898, on presentation of satisfactory evidence of age."

Secondly, the date 1898 is the approximate date of transition in ignition from black powder to the current modern smokeless powder.

One could argue that these interesting transitional arms from the 1850's to 1898 could conceivably be used to commit a crime, and I'm sure they could, but it would be a risky, expensive maneuver on the part of the criminal. As an example, I have here a self-contained cartridge for the Colt .36 caliber Police Thuer Conversion made in the period of 1868 to 1872. The cartridge alone has a market value of \$60 to \$75 and at this age might not even fire. You will have to admit that this is too expensive for the average hi-jacker. Seriously, in thirty-five years of study and contact with collecting, I have heard of only one antique gun being used in a crime. It has been stated that the purpose of this bill is to control the type of arm prevalently used in crime. I submit to you, Gentlemen, that these obsolete arms have not been so used.

From an entirely different viewpoint, what would you be doing to the civil rights and property rights of the gun collector, whose collection included such obsolete cartridge arms, if you deny him access to a national market for their disposition either by himself or his estate? Without a market there can be no economic value. Interested collectors of many of these arms are so widely spread geographically as to make reasonable sale only in his home state virtually impossible. Collector interests vary. One man may collect United States military pistols which range from the Revolution to the VietNam conflict. Some of the obsolete cartridge models are so scarce that it would take a nationwide search and possibly a trade of another gun to persuade the owner to part with it. These would include such arms as the Remington 1865 single shot Navy pistol and the Smith & Wesson Model 1869 American, of which less than 1,000 of each were used by the armed forces. Furthermore, under the definition of a destructive device (Sub Paragraph 4 Section 921), the old 1865 Remington would be a "destructive device" since it fired a .50 caliber cartridge which in itself is so rare that it is now a collector's item. A collector restricted to state lines would have little, if any, chance to complete a collection along the lines of his interests.

While the exception in the bill for antique arms would imply that these could be imported as museum pieces or curios, the language applying to their import in Section 925 Sub Paragraph (d)(2) is not re-assuring. It permits the importation of an unserviceable firearm, other than a machine gun as defined by 5848(2) of the Internal Revenue Code of 1954 - "not readily restorable to firing condition imported or brought in as a curio or museum piece." We feel that no restriction whatsoever should be placed on museum pieces, and I certainly know of no museum or serious collector who would want an unserviceable piece not restorable to firing condition.

The inclusion of "destructive devices" in this bill is not understood. Their use in crime certainly has not been documented other than one vault burglary in New York where firearms already are strictly controlled and which itself was a stolen weapon. No doubt there may be a few people who collect this type of ordnance, but it is certainly not true of the vast majority. It is necessary to regulate the procurement, ownership and transfer of bazookas, mortars, rockets, grenades and crew served ordnance, the appropriate place for such regulation is in the National Firearms Act as a Category IV weapon. The National Firearms Act has, with reasonable effectiveness, controlled machine guns, sawed-off shotguns and other full automatic weapons, since 1934.

In the matter of license fees there are two areas which deserve your careful study and consideration. Individual craftsmen do make an occasional gun of original design, and in many cases they are really works of art. A craftsman of this type might not produce more than a gun in a year or two. Secondly, there are many

small dealers - of which I myself am an example - who occasionally import high quality sporting arms; for example, a fine English shotgun of a style not obtainable in this country. To charge these small gun makers and occasional importers the same fee as the great industrial manufacturer or the boat-load importer - a \$500 annual license - is beyond question a discriminatory fee.

It was my privilege to have as a personal friend and frequent visitor in the last five or six years of his life, the late Honorable Hatton W. Sumners who was Chairman of this very Judiciary Committee from the 72nd through the 79th Congress (1931-1946), and was universally recognized as one of the great constitutional authorities of this country. Mr. Sumners told me on more than one occasion that when the National and Federal Firearms Acts were first proposed in the 1930's that the Judiciary Committee refused to consider them because in his words "on their face they were unconstitutional." He further expressed the opinion that their passage, one as a taxation measure, the other as an interstate commerce regulatory measure, were evasions of doubtful constitutionality. I can only quote this from personal conversations with Mr. Sumners, although I feel sure that you gentlemen can document these opinions from the archives of this Committee.

Recommendations Regarding Legislation:

The sportsmen and collectors I represent and; I believe sportsmen and collectors in general, feel that H. R. 5384 and its counterpart S-1 in the Senate are entirely too restrictive and discriminatory against the law abiding gun owner with no compensating possibility of reducing criminal misuse of firearms. Therefore it is recommended:

- (1) That H. R. 5384 not be favorably reported;
- (2) That a person purchasing a handgun by mail - which is not an antique - be required to submit a sworn statement as to his age and eligibility under his state law to receive the same legally. Further that the form of this statement and penalties for violation be the same as that applied in the case of a citizen signing an income tax return.
- (3) If any handgun is prevalently used in crime, it is the cheap, foreign small caliber pistol or revolver which cannot conceivably serve any collector or sporting purpose. While the State Department now has the power to restrict these imports, if further legislation is necessary we recommend a tariff law change.
- (4) If legislative "window dressing" to control bazookas, grenades, mortars and cannon are deemed necessary and advisable, we urge that it be made as an amendment to the National Firearms Act. In that event, we urge that all sporting type firearms, not just shotguns, be specifically excluded from the definition of "destructive device."
- (5) If it is the intent of the Congress to take some action against crime and the criminal rather than an inanimate object which might incidentally be used, we recommend the consideration of H. R. 6137 by the Honorable Bob Casey of Texas.

Thank you, Mr. Chairman and Gentlemen. The collectors and legitimate sportsmen of this country are ready and willing to support and assist in the passage of meaningful legislation directed at crime and the criminal. They will continue to resist any infringement on their long-established right to acquire and possess conventional small arms.