

"WHAT PRICE COMPLACENCY"

by W. R. Funderburg, M.D.



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President Holbrook and Fellow Collectors, I think most of you know that I have been on vacation for the past two weeks and did not know until last night that I was to be a part of your program. Further more I had no voice what-so-ever in the selection of the title. Your program reads, "The Vicissitudes of a Gun Collector." But last night as I sat in my room, it suddenly occurred to me that much more is involved here than the mere harassment of a gun collector for the past six months. If we are to use the word "Vicissitudes" it is the vicissitudes of this country and the changes that are taking place in the United States of America. So that an innocent citizen, who is not a criminal, can be harassed for six months because of bureaucratic decree. On a sudden decision last night I have changed my title. I would like to talk a little about The Price of Complacency.

One hundred and eighty-seven years ago, a twenty-one year old American was caught as a spy and condemned to death. As he was about to be executed, he uttered the words that have stirred the hearts of Americans for almost two hundred years, "I regret that I have but one life to give for my country". Recently another young American, trapped in a very similar situation, simpered, "I am sorry I made the flight - my superiors are to blame- and we were wrong to spy upon your country". And all America blushed with shame and humiliation.

When the Pirates of Tripoli made extortionate demands, as the price of not plundering our ships, they were answered with these bristling words, "Millions for Defence; not one Cent for Tribute". Recently we saw millions of American dollars turned over in ransom to the demands of a bearded, psychoneurotic, pip squeak, who arrogantly spat on the United States and invited our most dangerous enemy to set a strong hold at our back door. His guns are even now pointed down our throats and we cower, and grovel and send him his blood money. After a brief show of spirit at the atomic weapons we complacently accepted their word that the weapons have been removed, and we did nothing.

Resentment at unfair taxation was one of the motivating forces behind the American Revolution. The proud, self-sufficient patriots, who dumped the much needed tea in the Boston Harbor, to show their resentment against an unfair tax would literally writhe in their graves could they see the inheritors of that country, which they fought so hard to free, meekly and complacently excepting the most stifling, burden-some, unfair load of taxation ever known in the civilized world.

Gentlemen any system of taxation, which can deprive a man up to nine tenths of his entire production is confiscation. But you say the Constitution gives the government the right to tax, to run the country, and the people have relegated that right to the government. But, can we the people, relegate to our government rights which we do not have ourselves? We certainly do not have the right to open

our neighbor's pocket-book and take his money by force. Even though motivated by the noble purpose of using the money to give welfare to his unfortunate neighbor on the other side. I use the word unfortunate, you notice. You know we no longer have lazy bums in this country. We have deprived persons. O' it is cruel to speak of a lazy, no-good, drunk. He is an under-privileged person with a weakness. O God! what an ocean of tears we have shed for the poor forgotten man of the street. But, if it is wrong for us, as individuals, to force one neighbor to support another, then it is equally wrong for a government to do so. This compulsory charity has no justice, no moral right, and only a very questionable legal right. If we could have a popular vote today how many people do you suppose would vote for foreign aid; would vote to have a large portion of their earnings taken to support the do-nothings and the no-goods all over the world? Yet, our earnings are still being given by the billions of dollars. We submit, we accept, we cringe and bow; we let the politicians and the bureaucrats run the country. Can we not realize that this power to levy an ever increasing, progressive rate of income tax is all the tool needed to insure the creeping cancer of Socialism. The Liberals, the Pinks and the Dogooders do not need any votes. They do not need any laws changed. All they need is a few more years of our complacency and indifference and they will have their Socialism.

But, unfortunately, even this is not the most dangerous misuse of the Power to Tax. Big government has, with increasing frequency, used this Power to Tax dishonestly, to obtain controls categorically denied them by the Constitution. Did any of you ever stop to realize that the Firearms Act passed by the 73rd. Congress in 1934 is not a gun prohibition law? It is a tax law. The second amendment which is the second article of the Bill of Rights, states and I quote "a well regulated militia being necessary to a free state, the right of the people to keep and bare arms shall not be infringed".

Now, when the 73rd. Congress wished to place a curb on the gangster type weapons, such as sawed-off shotguns, machine guns, silencers and etc. they realized that any prohibition of even these weapons would be declared unconstitutional. So, they levied a two hundred dollar transfer tax on these weapons. Now, it is claimed the reason for demanding registration was not to prohibit the guns but was to collect the tax, every time it changed hands. So, we see our Federal Government using the Power to Tax to circumvent a constitutionally guaranteed right of the people. Now these particular weapons are not adapted to sports or target shooting. Consequently, if any one recognized this subterfuge at the time, it was accepted, with the feeling that well perhaps the end justifies the means. Again we complacently submitted and accepted it.

Now twenty years later, for no reason which any of us can ascertain, the Alcohol and Tobacco Tax Unit of the Treasury Department has decided to include almost the entire Arms Curiosa group in this particular violation category. They have admitted that not a single crime has been committed by any one of these weapons in the past twenty five years. Never-the-less, they proceeded to issue their arbitrary, unilateral decision in the form of a Directive or Code of 1954.

Inevitably, this decision was also immediately subjected to a judiciary review. You will remember United States versus Martin Retting, in the District of Southern California in 1956. Judge Pearson Hall, issued his decision that the Chicago Palm Pistol was definitely a revolver, and therefore, was not a Fire Arm in the violation category. In spite of this decision they continued to demand registration of this particular gun in all other sections of the United States, except the District of Southern California. I ask Mr. Neal yesterday afternoon why, if the A.T.T.U. did not agree with the Judge's decision in this Federal Court, they did not appeal the case to get a decision which would be binding through-out the United States. He admitted that they did go to the Justice Department with that in mind, but then refused to tell me what decision had been reached, except that they were going to continue to register these guns.

Now this brings up another conflict which apparently even the top office of the A.T.T.U. had not thought of until I brought it up. I then inquired since this is a Tax Law, how they avoided violating Article One, Section eight, paragraph one of the Constitution which states, "Congress shall have the power to collect taxes and excises, to pay debts and provide for common defense and general welfare of the United States. But all such taxes duties and excises shall be uniform through-out the United

States". Gentlemen, his answer was, "I do not know, this has never been brought up before". I further ask Mr. Neal, why an absolutely harmless gun, a gun for which ammunition is totally unobtainable; why such a gun must be registered as a violation weapon. He answered, "Because it is the Law". What he did not say was that it is the law only by virtue of their arbitrary decision. An intra-bureau decree decided to include the Arms Curiosa, the Oddities and the Freaks in the "any other weapon category," and make them violation weapons. Incredibly, they have been getting away with this kind of mumbo jumbo double talk. And this Department has registered many, many oddities of the Arms Curiosa group which are completely and totally harmless. Why? Because, again, we have complacently submitted and accepted. Now Fellow Collectors unless we raise effective opposition now they will soon have it established, in the minds of the public, that they have the indisputable right to arbitrarily decide which guns are to be included in the "any other weapon category". They will then have a tool to demand registration of every gun in the United States. They will not need any new Law. We, the people, will have lost another priceless freedom. Our Constitutionally guaranteed right to "keep and bare arms" will be lost through the Power to Tax and Bureaucratic Decree. Are we going to utter the defeatist cry? "Oh, you can not fight the Federal Government. What can you do? "Are we going to - and again I use the word - complacently accept this bureaucratic grab for power?

Gentlemen, what has happened to the fighting spirit of the fiercely independent, freedom loving early Americans, who faced the British guns at Bunker Hill and obeyed the order not to shoot until they could see the whites of their eyes, --- or, of those whose symbol was the picture of a coiled rattlesnake on a flag, with the words, "Don't Tread On Me" --- or, who uttered, "I have not yet begun to fight" --- or, "Don't give up the ship" --- or, "Speak softly but carry a big stick" --- and much more recently, simply the word "NUTS" to the German Commander's demand for surrender? Is it possible that we are a generation of weaklings? A nation of chickens? Have we become, "Pigeon livered and lack gall to make oppression bitter," as Hamlet said?

Well, My Friends, five months ago I had a rude awakening. I suddenly found out how far down the road to total government control, we had gone, how many of our basic freedoms we have already lost to the arrogant demands of an all-powerful central government. And Gentlemen, I was sick. I am still sick, mentally and physically sick. The thing of which I am most sick, is the man who has let these things come to me, myself. I am responsible for the malignancy of Socialism which is rotting away the soul of America, I am responsible because I have not practiced what I have believed. I have been too concerned with my own selfish pursuits, to take a good look as to what is actually happening to this last citadel of freedom, in the civilized world. What, in God's Name, kind of a heritage am I leaving for my Judy, Jim and Little Betty Jane and your children?

Well, My Friends, I am sure you all know what woke me up. I have tried to keep key collectors, in different areas, informed of the proceedings as they happen and I hope they kept the rest of you informed. It was impossible to personally write to you all but for the benefit of those who may not know, briefly here is what has happened. Shortly after the October issue of the Saga magazine carried an article about my oddity collection, I was charged with having unregistered violation arms. I refused their demand that they be permitted to come into my home and photograph all of my guns. The pictures were then to go to Washington. There it was to be decided which guns I must register. After two months of demands and threats, and my continued refusal, they reduced the original demand from thirty-four guns originally implicated to just two. These guns the Chicago Palm Pistol and the Wrench gun. (They are back here on the table if any of you care to look at them.) I was told that if I would just sign the application there would be no tax. (that is until I sold them or gave them away.) I could even mark the application registered under protest, if I insisted. I realized that this is what they considered a very conciliatory move on their part. But again I refused. I was then threatened with Criminal prosecution and the case moved to the regional office.

The regional supervisor interviewed me. I finally promised to register the Chicago Palm Pistol, if he could find me a single source of ammunition for this gun or if he could find a single case where an act of violence or crime had been committed with one of these, in the past twenty five years. They

could not produce and I did not sign. The case was then moved to Washington. I was so informed by letter from the regional office that all of my pictures, my arguments and letters had been sent to the home office in Washington.

Yesterday afternoon, in Walter Howe's room, who arranged a meeting, I spent over two hours with Mr. Oscar Neal who heads the Firearms Control of the A.T.T.U. Mr. Neal was very courteous, very much the gentleman and treated me with every courtesy. However, our views on guns and firearms legislation were poles apart. To give you a few examples, first, he contends that nonconformity in shape and appearance alone, decide if a gun is in the violation category. Also, that potential criminal use of a weapon plays no part in this classification. To me this is incredible. Second, he contends that Judge Hall's decision in 1956 is binding to them only in the District of Southern California. And he has no answer to my question, why, they did not appeal the case, to get a supreme court ruling. Third, nor can he explain how they avoid violating Article One, Section eight, paragraph one of the Constitution, which states, "That all Federal Taxation must be uniform through-out the United States". He further contends that the Bureau's inability to find a single case of crime involving anyone of these guns, has no significance in it's classification as a Firearm, that is, in the violation category. We talked for two hours but he still insisted that the two weapons indicated must be registered, or I must face arrest and criminal prosecution. I replied, Mr. Neal, "You have issued your ultimatum, let me give you mine. As soon as I get home from this meeting, I will very accurately and precisely saw those two guns in-half and send you the pieces, by registered mail". I further implied that the sawing and the pieces would be well viewed and well photographed by reporters. I then followed this by pointing out to Mr. Neal that in such an event we would both lose. I would lose two fine guns and their Department would certainly lose face, when the Public realized that two fine guns had been wantonly destroyed needlessly. I ask for a delay in the prosecutuion of my case pending passage of corrective legislation, which we hope to get introduced into this session of Congress.

Gentlemen, I am happy to announce that Mr. Neal has agreed to this. And has promised to notify Cincinnati immediately that no further action will be taken in my case pending the out come of the purposed legislation. I then ask him if he thought his department would actively oppose such legislation as long as it did not interfere with their control of the typical gangster type weapon. I was very much pleased and surprised when he replied, that he was certain that the A.T.T.U. would not oppose such legislation.

We parted in a very congenial atmosphere. Now it is up to us to get some sensible legislation. I am certain that we can get this legislation introduced and then it will be up to each and every one of you and every gun man in this country, be he gun collector, hunter, target shooter or plinker, to get behind this when it is introduced. Contact those who represent you in Washington urging them to pass this very necessary amendment to the Firearms Law.

Gentlemen, I thank you.

As we go to press we have received the following letter from Mr. Frank C. Daniel, Secretary of the National Rifle Association of America who has carried the ball in correcting the situation that W.R. Funderburg talked about.



NATIONAL RIFLE ASSOCIATION OF AMERICA

INCORPORATED 1871

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WASHINGTON 6, D.C.

OFFICE OF THE
SECRETARY

July 29, 1963

MEMORANDUM TO: NRA Committee on Firearms Legislation
NRA Gun Collectors Committee


At the meeting of the NRA Executive Committee on March 28-29, 1963, on recommendation of the Gun Collectors Committee and the Committee on Firearms Legislation, the following motion was adopted:

"MOVED, that the National Rifle Association seek and support an amendment to the National Firearms Act, Section 5848, Definitions, paragraph (1), to delete the wording 'or any other weapon, except a pistol or revolver from which a shot is discharged by an explosive if such weapon is capable of being carried on the person,' and to delete paragraph (5) of the same Section. Also, to make such other deletions as may be necessary to make the entire Act conform."

After consultation with members of the Gun Collectors Committee, representatives of the Alcohol and Tobacco Tax Division of Internal Revenue Service, and the legislative drafting service of the Congress, a bill was prepared and was introduced in the House of Representatives on July 22, 1963, by Congressman Cecil King of California. The bill is H.R. 7688. A copy is enclosed.

We are now consulting with our other friends in Congress with the aim of having several companion bills introduced in the House and one in the Senate. In the very near future, a letter will go out to all affiliated gun collector associations urging that support for Mr. King's bill be communicated to the House Committee on Ways and Means.

While the Internal Revenue Service has not formally committed itself, it is my feeling that we have approached this in such a way that they will not oppose the passage of this bill. If this proves to be the case, and if we get sufficient support from interested people, I think we have a good chance of obtaining passage of this amendment to the law.



Frank C. Daniel
Secretary

FCD/jan
Enclosure

All collectors owe much to Doctor Funderburg, the NRA, Congressman Cecil King, Walter J. Howe and many others that worked diligently to accomplish this end. Altho the battle is not entirely won we are well on the way. All of the Gun Collector's Committee of the NRA except Congressman King are members of the ASAC.