

PISTOL REGULATION: ITS PRINCIPLES AND HISTORY

BY KARL T. FREDERICK

Editor's Note: For a number of years past the subject of proper regulation of the ownership and use of small arms has been engaging the attention of legislators throughout the United States. A great many bills have been enacted of which practically no two were alike. Some have appeared to have produced beneficial results, in other instances quite the opposite has been the case. In August, 1930, the National Conference of Commissioners on Uniform State Laws, meeting in Chicago, finally approved a Uniform Firearms Act which had been before it for consideration over a period of several years. This Act was subsequently accepted as satisfactory by the American Bar Association.

In the article which follows, which was published by Mr. Karl T. Frederick, a distinguished member of the New York Bar, in *The American Rifleman* in its issues of December, 1930, to July, 1931, the draft of this Act is set forth, together with Mr. Frederick's discussion of the history of firearms legislation up to the present time. All persons interested in the subject of Pistol Regulation will find herein much valuable data presented by a person who has made a careful study of the situation and who is extremely well qualified to make therefrom useful deductions. The article will appear in two or more issues of the JOURNAL. Part one follows.

PART I.

The regulation of the purchase, possession, and use of firearms, whether by Federal, State, or local laws or ordinances, is a matter of vital concern to all that great number of men, and women too, who love their innocent use. Publicity seekers or reformers of the type who are prepared on ten minutes' notice to cure any and every social ill, whether real or fancied, by the time-worn expedient of "passing another law," have busied themselves for many years with proposals of every conceivable kind with respect to firearms. No year passes without the accompaniment of numerous legislative proposals to restrict or abolish the manufacture, possession, or use of firearms and ammunition. Fortunately, most of these die unborn; but there is hardly a State in the Union whose statute books do not contain laws relating to firearms. Many of the bills which have been proposed from time to time have been weird in the extreme. Nevertheless earnest study and serious thought have been given to the subject by a few persons, and some of the legislative proposals which have resulted have been intelligent and well designed pieces of work.

It is, of course, quite unnecessary to argue to readers of *The American Rifleman* that firearms ought not to be abolished. It will no doubt be useful, however, to set forth the situation with some little

care for the purpose of presenting the facts which relate to the situation, the arguments for and against restrictive firearms legislation, and something of the history of the struggle which has been going on for a number of years between the active group of persons who either sincerely believe or pretend to believe that drastic regulation or restriction of the use of firearms will accomplish a great public benefit, and the large but unorganized general public which hesitates to accept the theories of the self-appointed reformers. It is quite clear that the greater part of the public knows little or nothing about the merits of the question presented. As in all such matters the bulk of the populace will doubtless remain inarticulate, unorganized, and incapable of self-expression. It will probably in the future as in the past continue to be a prey of vociferous groups which make up in noise what they lack in principles and intelligence and which frequently succeed in accomplishing their designs because the public as a whole has no adequate method of defending itself and protecting its interests.

Effective opposition to the schemes of those who shout for the abolition of firearms must come largely from organizations such as the National Rifle Association and the United States Revolver Association and from other bodies such as surety companies, organizations of sportsmen, reserve officers, legionnaires, and other similar bodies. It is hoped that the present articles will aid the members of this large and public-spirited group to offer effective opposition to the drastic proposals which are so often encountered and to assist them in obtaining reasonable, sensible, and fair legislation affecting firearms.

While agitation has been chiefly directed at pistols and revolvers, it must be apparent to every thoughtful person that this is but a first step toward the restriction or destruction of all firearms. Almost every argument which is used against the handgun is equally applicable to rifles and shotguns. The sawed-off shotgun is almost as common a tool of crime as the pistol, and it can hardly be denied that it is a much more dangerous weapon. Other types of firearms would undoubtedly continue to be used in the perpetration of crime even after pistols were abolished. The reformers would not, however, admit the failure or unsoundness of their program. They would merely assert the necessity of extending it to all firearms and ammunition, and we would then come face to face with the proposition of completely disarming the nation. The battle against unreasonable pistol legislation is, therefore, not one which is of interest solely to pistol-shooters. It is of vital concern to all riflemen and shotgun-shooters.

For that reason the National Rifle Association has been and will continue to be alert and active in the interest primarily of shooters as a class, and in a larger sense in the interest and for the sake of the general public welfare. The safety, indeed the very existence of the nation may depend in the future, as it has at times depended in the past, upon the familiarity and efficiency of the whole people in the use of firearms.

THE ANTI-PISTOL ARGUMENT

The argument of those who favor drastic and extreme legislation may be summarized as follows:

(1) "Crime is rampant and appears to be increasing. Much of it is accompanied by violence. Murders and robbery are common. (2) The only purpose of a pistol or revolver is to kill. Everyone who has a pistol is a 'potential murderer.' (3) Pistols are common tools of the criminal. They should be classed with 'burglar's tool.' (4) A pistol is of little or no value for purposes of defense and has no other substantial reason for existence. Criminals ought not to be allowed to obtain or to possess them and honest people have no good reason for having them. Therefore," they conclude, "let us pass a law which will make it impossible for the criminal to obtain a pistol. By so doing the crook will be deprived of his most important tool. Criminals cannot commit crime unless they possess the instruments of crime. The new law will, consequently, prevent crime or, at least, will prevent those crimes of violence which are now perpetrated with the aid of a pistol."

This argument has a plausible sound. It appeals to a considerable number of people who know nothing about guns, and it is swallowed whole by that portion of the public who do not think about what they read or hear but who are ready to accept almost any strong and ready-made idea which is handed to them for consumption in tablet form.

THE ANSWER

(1) *Crime Is Rampant*

Let us begin by examining the various propositions which are contained in the foregoing argument. Crime is rampant and appears, for the present at least, to be on the increase. More and more of it seems to be accompanied by violence. The statement appears to be fully borne out by such figures as are available. In 1904 out of every 100,000 of the general population, 69 were in prison. In 1923 the

figure had increased to 74 and in 1927 to 85. Homicides per 100,000 of population increased from 6.6 in 1912 to 8.7 in 1927. The murder rate in this country is said to be three and one-half times what it was in 1900. The money cost of crime has been variously estimated at from \$2,500,000,000 to as high as \$10,000,000,000 per year in the United States. These figures are ominous indeed. The shocking effect of the increasing toll of violent crime upon the public mind, terrible as it is, is further greatly magnified by the almost unlimited notoriety and prominence which is given to such crimes in the public press. To realize this fact, we have only to compare the widespread interest which attends a murder as compared with an automobile death. In 1929 some 31,000 people lost their lives in the United States through automobile accidents. This frightful total was more than three times as great as the total number of homicides in the United States during 1929; nevertheless the announcement attracted less attention from the public press than is commonly accorded to a single sensational holdup or gang killing.

When we look at the money losses through crimes of violence, it is, of course, impossible to submit accurate or thoroughly reliable figures. Experienced estimates based on the data available to surety companies and similar institutions indicate, however, that the money losses through crimes of violence amount to less than 3 per cent of the total annual crime losses of the nation. The losses which are suffered through fraud in its various forms are incredibly greater than those which occur from violence.

A competent student of crime in a recent article made the following statement:

"It would appear from studies that have been made in several of the States in recent years that there are two main divisions of the problem of crime. In one, which accounts for about 30 per cent of the aggregate of crimes notified to the police, the acts themselves and the motives subsequently disclosed are indistinguishable from those with which society has had to deal in all the centuries of modern times. In the second category, which includes, one is amazed to learn, 70 per cent of the reported infractions, the commission of crime is neither more nor less than the operation essential to the production of profit in an organized business of colossal proportions.

"Concerning the crimes included in the first 30 per cent, crimes of passion, of impulse, of temptation, of weakness, and generally speaking, of individual concept and individual execution, it appears to be agreed that the administration of the criminal law is effective

in about the proportion it always has been; but as to the other 70 per cent, it has been demonstrated that those who plan crimes for profit also plan for the escape of the criminals.

"* * * The financial stake which dominates the conflict is estimated by the surety company at three thousand millions of dollars annually in the United States and by others at two or even three times that amount. After careful and intelligent surveys of the losses sustained by the crime business in the contest with the forces of law, the success of the *criminal aggressive* has been rated as in the proportion of 85 to 15." (Martin Conboy in New York State Bar Association Bulletin, March, 1930.)

To put this statement in other words, 70 per cent of present-day crime is organized and carefully planned and plotted and it goes unpunished 85 times out of 100.

In 1925 the late Governor Hadley, of Missouri, made the following statement to the American Bar Association:

"I gathered, in the investigation I made as Chairman of the Committee of the American Law Institute, statistics from a majority of the States and I have carefully examined those gathered by other committees and commissions, and it is my judgment that of those committing major crimes * * * not one out of every ten is apprehended and adequately punished * * * that our system of apprehending and prosecuting those who commit major crimes is only from 10 per cent to 15 per cent efficient; that as to those apprehended and indicted for major offenses, it is only from 25 per cent to 30 per cent efficient * * * and that as to those actually tried for major offenses, it is not over 50 per cent efficient."

As Mr. Martin Conboy has very pertinently said:

"Certainty of arrest and of punishment after arrest would come close to ending the industry altogether."

No well-informed person can deny that the crime situation is a very serious one; but it has always been a serious one. We cannot, of course, prove the statement by statistics, but the student of history must apparently conclude that crimes of violence, at least, were much more prevalent in the Middle Ages and in early times than they are at the present time. Inefficient as it is in preventing crime, society is much better organized, has much better means of communication, and is much better prepared to detect and punish crimes of violence than it used to be. The days have passed when it is unsafe to pass through a city street at night without an armed guard. A trip from one city or town to another no longer involves serious ele-

ments of personal danger. And this improvement has come about coincident with and partly because of the development of firearms.

Pistols have been in common use for only three or four hundred years. They have been manufactured in large quantities only for the last seventy-five or one hundred years. *During that time personal safety has become the rule rather than the exception. We cannot avoid the conclusion that pistols are not a cause of crime.* Cain did not need a pistol to kill Abel. Brutus slew Caesar without a pistol. The Borgias eliminated their enemies without the aid of firearms. Robin Hood and his merry men were not dependent upon the handgun for the success of their ambushes.

While we are referring to the good old days, it is worth while to recall that severity of punishment is not the cure for crime. Certainty and promptness of punishment rather than severity are more effective. There was a time, as we all know, when in England considerably more than two hundred separate offenses were punishable by death. Nevertheless, that period was one of the most lawless and violent known to history. The utter failure of the drastic technique in the suppression of crime is universally acknowledged.

(2) "Potential Murderers"

The next proposition which we mentioned in the argument of those who want to abolish pistols is to the effect that these weapons are the common and necessary tool of the criminal, that the only purpose of the pistol or revolver is to kill, and that everyone who has a pistol is a "potential murderer."

It would be hard to imagine a more false or misleading statement. It is not clear just what is meant by the term "potential murderer." If it means that a person who possesses a pistol is likely for that reason to become a murderer, it is an outrageous slander against every one of the ten or fifteen million Americans who possess a firearm. Would any person who makes such a thoughtless statement admit that every member of the Army and Navy, every sportsman who shoots, every police officer, every sheriff, and every deputy sheriff, and almost every bank teller and express messenger in the country is a "potential murderer"? If so, we had better admit that the tendency toward murder is so universal—that the instinct to kill a human being is so deeply ingrained in the human animal—that it should be recognized and encouraged like the natural longing for life, liberty, and the pursuit of happiness. The statement, if it is true in any sense of the ordinary possessor of a firearm, is equally true of every

farmer, woodsman, or householder who has an ax, of every artisan who has a chisel, of every man who has a razor, of every housewife who has a butcher knife or a bread knife. It is not necessary to stop with such an enumeration of manufactured articles. The statement is equally true and equally false of every human being who can lay his hands upon a club or who can grasp a stone. The statement is equally true and equally false of every living human being who possesses sufficient physical strength and intelligence to move and to control the movements of his arms and legs.

The statement obviously is not intended to be taken in this sense. It is rather intended to convey the impression not only that the possessor of a firearm has the physical power to kill but that he has latent or active in his mind and character the will to destroy his fellow man, and in some way the implication is intended to be conveyed that this desire or willingness to kill is caused by the possession of a firearm. The statement is one of that class to which we are accustomed, phrased in resounding terms, formulated as a sort of slogan and intended to influence human thought and sympathy not by any appeal to reason or truth, which are ignored, but rather by the sheer force of sound and because of the striking and arresting phraseology employed.

A "potential killer," if it means anything, means, not a man who has the physical power to kill, but rather a man or woman who has the desire, the intent, or the willingness to kill. And these qualities are qualities of the mind and of the mind alone. They do not depend in any degree for their existence upon the possession of the means for killing. If they exist, the means can readily be found, whether it be a pistol, a razor, an ax, a chisel, a club, poison, or any of the other innumerable means, not excluding the bare hands or fists which have been used for the accomplishment of murder since the world began.

The statement that every person who has a pistol is a "potential murderer" is in its implications, as we have said, not only a false but an outrageous slander against every member of the human race. The statement is just as true of the man who makes it as it is of his fellowmen. It would be just as honest and just as truthful to say that every man who advocates the abolition of firearms is a "potential murderer." A man with a gun may be a "potential murderer" and the man who wants to destroy it may likewise be a "potential murderer," but in neither case is he such an enemy of society because of his mere possession of or opposition to firearms.

The Users of Pistols

Let us consider for a moment who are the possessors and users of pistols. They are said to be the common tools of the criminal. Grant that they are frequently used in the perpetration of crime. Let us not forget that they are also used for the prevention of crime. As to the uses of pistols, it is, of course, impossible for anyone to assemble statistical data. Nevertheless, there is excellent ground for the statement that more than 98 per cent of the pistols in this country were made and are used for entirely legitimate and proper purposes. We may summarize the purposes for which pistols are used—both good and bad—as follows:

1. The use of pistols by the police, secret service, and other law-enforcement officers.

2. The use of pistols by the Army, Navy, Marine Corps, National Guard, and Organized Reserves.

3. The use of pistols by bank guards and bank employees, express and mail agents, watchmen, messengers, etc. The extent of this type of use is very great. As an example, we may cite the fact that a single bank in the city of New York employs an instructor and gives regular instruction in pistol-shooting to more than 1,200 of its employees who are armed with the pistol for the protection of life and property.

4. The use of pistols by target-shooters and sportsmen. The number of these can hardly be estimated. That it is very large cannot be doubted. More than 7,000,000 people are reliably reported to indulge in hunting annually. A large percentage of them use or at least own pistols.

5. The possession or use of pistols for the protection of the home and the place of business. We shall have more to say regarding the sneers of those who deride and decry the principle of self-defense. No one can deny, however, that an enormous number of guns are kept for the sole purpose of affording a means of defending the lives, the families, and the property of American citizens.

6. The use of pistols by criminals. Unless this final group is more numerous than any of us imagine, it must constitute but a small percentage of the entire number. Nevertheless, it alone is the group which makes all of the trouble and which, from the misuse of firearms, inspires the well-meaning reformer to urge the abolition, first of pistols, and then of all other guns.

No figures, of course, exist to show the totals comprised by the foregoing classes. It does not seem unreasonable, however, to estimate

their number at from 5,000,000 to 8,000,000. Two per cent of such a number amounts to at least 100,000. Whether the group classed as criminals who use pistols in the perpetration of crime amounts to as many as 100,000 can only be a matter of guess. In making such an estimate we must not forget that by far the greatest number of crimes do not involve violence. Reliable estimates indicate that about 97 per cent of the money losses due to crime are accomplished by fraud and other non-violent means and that not more than 3 per cent of the money losses from crime involve the element of violence.

We shall have more to say a little later on with regard to the use of pistols by the various classes which have just been enumerated. It is sufficient for the present to remark that it requires but a moment's honest reflection to bring one to the conclusion that the overwhelming proportion of those who possess and use pistols do so for entirely legitimate purposes, are not disposed to crime and are not "potential killers" in any true sense of the term.

There is another expression which was used in the proposition which we are now considering to which we desire to call attention in passing. It is to the effect that "the only purpose of the pistol or revolver is to kill." Why this expression should be limited to pistols or revolvers is hard to understand. If it is true, then it applies equally to shotguns, rifles, and all forms of firearms. The statement, of course, is merely another form for expressing the same idea which is intended to be conveyed when one talks about "potential killers." If everyone who possesses a pistol does so for the purpose of killing some human being, then everyone who possesses a shotgun or rifle must likewise do so for the purpose of killing a human being.

Society is indeed in a sad condition if the statement has any substantial ground of truth. If every possessor of a firearm thereby discloses a murderous nature, why should not this fact be turned to account and the millions of owners of guns be put under bonds to keep the peace? Why would it not be better still to put them all in jail or rather in asylums just as we now endeavor to confine paranoiacs who are a menace to society because they are possessed by an impulse, or a purpose, or an intent to harm their fellow beings.

The proposition is preposterous on its face. The hundreds of thousands of bank guards and peace officers do not arm themselves because they intend to kill somebody. Their pistols have another reason for their existence—a legitimate and desirable reason—and, consequently, it is untrue to say that the only purpose of a pistol is to kill. Again, the expression "purpose to kill" conveys a meaning

much broader than those who use it would for a moment attempt to justify. To kill even a human being is not always regarded by society as wrong. It is, of course, true that many individuals sincerely believe that it is a sin under any circumstances to take human life, and we have no thought of impugning the honesty or sincerity of their beliefs; nevertheless, the views of society as expressed by its statutes recognize many different circumstances under which killing may take place. To take life as the sole and necessary means of self-defense or of the defense of the life or safety of one's family has never been regarded as culpable, and one is hardly justified in expressing a serious criticism of a man who says that he intends, if necessary, to defend his life or the life and safety of his wife by any means that may be necessary. To say that the only purpose of a pistol is to kill is as idle and untrue, as exaggerated and unfair, as to say that every possessor of a pistol is a "potential murderer."

(3) *The Tools of Crime*

An expression which we frequently find in the argument against pistols is that "they are the common and necessary tools of crime." We may admit that they are somewhat common tools of crime, but we cannot admit that they are necessary tools of crime. As an argument, the statement does not get us anywhere. That they are not necessary tools of crime is almost too obvious to require discussion. Crime has existed, as we have already remarked, for many thousands of years—indeed, from the time of Adam until the first pistol was invented and down to the present day. If the expression means that pistols are really necessary to enable crime to exist, it is obviously untrue, for if it were true, crime could not have existed before pistols were made. It is common knowledge, however, that many crimes of violence are committed without them. Such headlines as the following are common in our newspapers: "Woman Murdered with Furnace Shaker"; "Ends Life by Hammering Chisel Into His Head"; "Thug's Pistol Was Glass"; "Wooden-Gun Robber Held"; "Hammer Slayer Smiles in Court."

When we say that the pistol is a common tool of crime, we are doing no more than to direct attention to one of the many, indeed the almost innumerable tools of crime. Automobiles, telephones, knives, chisels, hammers, clubs, are all common tools of crime. Human speech is perhaps the commonest instrument or aid to crime. Probably more money has been lost through the criminal use of the ordinary steel pen than has ever been lost through the criminal use of pistols. The finan-

cial losses which annually occur through frauds or forgeries, and which are accomplished through human speech and the improper use of pens, is vastly greater than all of the sums which are lost through violent robbery. Indeed, almost every instrument of modern life, almost every household convenience has been or is capable of being used in the perpetration of some crime. Nevertheless, we do not look upon these as the causes of crime or label them "the common tools of crime." Crime does not exist because knives exist nor because pistols exist, and it would continue to plague society even if both of them were abolished. The statement, consequently, that pistols are a common tool of crime does not, as we have said, get us anywhere. The pistol is worthy of consideration by "reformers" only if its use in crime predominates over its proper and legitimate uses; if its wrongful and harmful uses outweigh its desirable and its rightful uses; but that is not the problem which is presented for consideration when the statement is made that the pistol is "the common tool of crime." What is really meant is that pistols are made for crime and for little else. In that aspect of the statement the argument reduces itself to the identical proposition which we have already considered in connection with the statement that owners of pistols are "potential killers" and that "the only purpose of a pistol is to kill."

Do Pistols Cause Crime?

Before we leave this branch of the subject, let us examine it from another angle. The arguments which we have been considering boil down substantially to the statement that the pistol is in some way the cause of crime or, at least, of a substantial portion of violent crime, and that if the pistol can be abolished, this substantial portion of crime will cease. The argument impliedly admits that there are other causes of crime—indeed most important ones—since the great majority of crimes, both in number and in amount involved, do not involve the use of a pistol. These other causes are, of course, ignored and the pistol is treated as if it were, in a great class of cases, at least, the all-important and essential cause without the existence of which those particular crimes would not occur. The argument has been put in the following language: "Here is a dead man. Here is the gun that killed him. Had this gun not existed, he would be alive today. Abolish guns and we abolish their effects." Now, it is a curious fact that in the United States, at least the last fifteen or twenty years, which has been the period of the startling increase in violent crime, has likewise been the period during which restrictive laws relating

to pistols have flourished. The logic of facts belies the argument for pistol prohibition. If pistols cause crime and if pistol prohibition can stop it, we ought certainly by this time to be able to detect a falling off in crimes of violence, but we are unable to do so. Criminal statistics show the exact opposite. There must consequently be something wrong with the argument. Perhaps pistols do not cause crime and perhaps a law prohibiting pistols will not end crime.

Practically every State in this country has some kind of regulatory law relating to pistols, but it is impossible for anyone to show any logical connection between restrictive pistol laws and crimes of violence. Some of the States which have the most drastic laws suffer, nevertheless, from the greatest proportion of violent crime; others whose laws are extremely mild and reasonable stand high in respect to the absence of crime.

Most of the countries of Europe have statutes regulating pistols to a greater or less extent. Europe, however, shows one striking exception to the general rule. Switzerland has no restrictive legislation whatever to curb the general and promiscuous use of firearms of any kind. In no country of Europe is the use of firearms more common and general. Every able-bodied adult male is required by law to possess and know how to use a military rifle. In addition he may own as many pistols as he likes. In no country of the world is rifle- and pistol-shooting more universally indulged in by all classes of people; no country possesses a more enviable record in international rifle- and pistol-shooting than Switzerland. There is no requirement of a license to carry a concealed weapon upon the person. In spite of all of these facts, in no country in Europe, with the possible exception of England, are crimes of violence so rare as they are in Switzerland. This fact must give pause to the advocates of pistol prohibition as a crime preventive. There must be something wrong with their argument that firearms, and pistols in particular, are in some way a cause of crime. A defect in their logic is not hard to find. Inanimate objects, such as pistols, knives, axes, or clubs, do not and cannot cause crime. They do not and they cannot supply the motive or the impulse. The causes of crime must be sought elsewhere—in greed, hatred, jealousy, and general moral depravity—and the remedy, if any there be, is more likely to be found in morals and education, in improved police methods of detection, and in the more prompt and certain imposition of punishment.

(To be continued)

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PART II.

(4) *Why Pistols Exist*

We come now, in considering the arguments against the pistol, to one which is of great importance. It amounts in substance to the statement that a pistol is of no value in the hands of its possessor for purposes of self-defense and that it has no other substantial reason for existence.

The importance of the argument is shown by a recent statement of a pistol prohibitionist which was substantially as follows: "We shall never succeed in getting anywhere with the abolition of pistols until we can convince the general public that a pistol is of no value for purposes of defense."

Let us turn our attention first to the second part of the statement—that a pistol has no substantial reason for existence. Consider the question from the standpoint of the various classes of people already enumerated who use pistols.

The first class was the police, secret service, and other law-enforcement officers. We may admit that our police forces as a whole fall short of perfection in efficiency. Complete efficiency is an ideal which is almost unknown and unattainable. It is not unreasonable, however, to believe, when any single principle is adopted with practical unanimity by the police forces of the world, that such principle is probably sound. When the police of the world equip themselves with the pistol as the primary and main reliance, they probably do so because it is the most useful and effective weapon for police purposes in existence. Grant that the standards of marksmanship the lower than we would like, grant that policemen are sometimes killed by thugs, grant that crime continues, nevertheless no one can deny that the pistol is the best all-around tool for its purposes that can be found for police work. It is commonly said, of course, that London "Bobbies" do not carry pistols. The statement, however,

proves nothing. The London "Bobby" is chiefly a traffic officer, while police work in its true sense is centered in Scotland Yard. The fact that a traffic officer seldom needs a pistol is hardly a fair argument against pistols in the hands of the general police. Here, then, is one very substantial reason for the existence of pistols, namely, that police forces need them.

The second class of people who use pistols are those in the Army, Navy, Marine Corps, National Guard and Organized Reserves—in other words, all of those who use them for present military purposes or who may require them for future military use and who desire to become proficient in order that they may, in case of future need, render more efficient military service. With this class of pistol-users the same argument applies as with the last, namely, the fact that pistols have been universally adopted for military use is a strong indication that for that particular purpose they are one of the most effective weapons that has yet been devised. No one would claim that the pistol could take the place of the field gun, the rifle, the airplane, or the mortar, but equally unfounded is the claim, which is sometimes made, that "the pistol as a military weapon is obsolete." Most of us have heard the same statement made about the rifle and the bayonet. The statement was perhaps more common before the late World War than it is now, for that terrible experience punctured many plausible predictions. Remarks of this kind, however, have no weight in the light of the official records of the War Department.

The following statements are quoted from the report of Hon. Benedict Crowell, Assistant Secretary of War and Director of Munitions, made to the Secretary of War under date of May 10, 1919, and published by the Government under the title "America's Munitions, 1917-1918."

"The American pistol was one of the great successes of the war. For several years before the war came the Ordnance Department had been collaborating with private manufacturers to develop the automatic pistol; but none of our officers realized until the supreme test came what an effective weapon the Colt .45 would be in the hand-to-hand fighting of the trenches. In our isolation we had suspected, perhaps, that the bayonet and such new weapons as the modern hand grenade had encroached upon the field of the pistol and revolver. We were soon to discover our mistake. In the hands of a determined American soldier the pistol proved to be a weapon of great execution, and it was properly feared by the German troops.

"o o o The nations of Europe had neglected this valuable arm

almost altogether, regarding it principally as a military ornament which only officers should carry. * * *

"Only a few men of each infantry regiment carried pistols when our troops first went into the trenches. But in almost the first skirmish this weapon proved its superior usefulness in trench fighting. Such incidents as that of the single American soldier who dispersed or killed a whole squad of German bayoneteers which had surrounded him struck the enemy with fear of Yankee prowess with the pistol. The 'tenderfoot's gun,' as the Westerners loved to call it, had come to its own.

"By midsummer of 1917 the decision had been made to supply to the infantry a much more extensive equipment of automatic pistols than had previously been prescribed by regulations—to build them by hundreds of thousands where we had been turning them out by thousands."

Military needs, therefore, supply a second substantial reason for the existence of the pistol. The fact that this need of pistols for military purposes is not limited to the uniformed forces of the nation deserves further emphasis. This country has been engaged, since the adoption of the Declaration of Independence, in six major wars and in many minor ones. It has a very definite military policy. That policy forbids the maintenance of and reliance upon a great standing army. The country relies rather upon a citizen soldiery for defense. Perhaps there will never be another war; perhaps the world is sufficiently enlightened and wise to avoid great conflicts in the future; perhaps racial hatreds and the clash of national interests will never again be sufficiently acute to bring about a resort to force; but until these possibilities have been amply proved, it would seem to be the part of human wisdom to pay attention to human experience. To prepare against a day of need is generally believed to be the part of wisdom, and, consequently, there is substantial reason for the existence of pistols and other small arms and for their use by the manhood of the nation in order that they may acquire the necessary skill through practice. This is an intelligent, indeed a necessary, item of any rational program of preparedness.

That familiarity with the use of small arms and skill in their use does not of itself lead to war or make war more likely is again indicated by the experience of Switzerland. Conversely—that unfamiliarity with or ignorance of the use of small arms is not of itself productive of peace and good order seems to be indicated by the experience of China.

The third group of users of pistols consists, as has already been indicated, of bank guards and bank employees, express and mail agents, watchmen, messengers, and other guards of the same general sort. Here, again, the pistol has been generally adopted for the reason that, all in all, it is the most effective weapon which has yet been devised for the use of this particular class of persons. It is unnecessary to enlarge upon this argument which has already been discussed in connection with the police. Nevertheless, in respect to this great class of men who may be generally denominated "guards," there is a most substantial and compelling reason for the existence of the pistol. The numbers who are involved can only be estimated; that they are very large is obvious. Perhaps an estimate of two million may not be excessive.

The fourth class of users of pistols consists of target-shooters and sportsmen. A more law-abiding and estimable group of citizens would be hard to find. Their interests, however, are apt frequently to be lost sight of in the somewhat warm discussions of those who long to abolish firearms. No element of protection either of the individual or of society is involved in their use of the pistol. Nevertheless it is obvious that pistols must exist or pistol target-shooting and the use of pistols by sportsmen will cease. It is perhaps not vital that they should continue. As one of those who hate firearms said some time ago: "If they must shoot at targets, let them use a bow and arrow; it would serve them just as well." Nevertheless there are strong reasons why a sport which develops so many desirable qualities and which contributes so much to the physical and mental health and well-being of the participant should not be abolished. Tennis and golf are likewise not absolutely essential, but there are substantial reasons for their existence as is amply shown by the interest and devotion of the many people who pursue these recreations, as well as by the many benefits to health, both physical and mental, which they produce.

The fifth group of persons who possess and use pistols legitimately and desirably consists of that great mass of the general public who desire a suitable weapon for purposes of self-defense or for the defense of family or of property. We will have more to say on this matter presently. It is a fact, however, that the pistol is generally regarded as the most effective weapon which has yet been devised for this purpose, and here we find a fifth extremely substantial reason for its existence.

The sixth class of pistol-users are criminals. Here, and here

alone, is the pistol put to an improper use. Here, and here alone, is it harmful to society. The harm, however, originates in the user and not in the tool. The problem, therefore, consists in the desirability of preventing crime. A crime is just as bad for society whether it is accomplished by the aid of a pistol or by some other means. The means of crime are unlimited. What we want is to stop crime and not merely to stop the use of some particular instrument in crime. To the extent, however, that we can deprive criminals of pistols or deter them from using pistols in the accomplishment of their nefarious ends, we will accomplish a useful purpose. The trouble with much of the discussion regarding pistols, however, is that many people seem to think that pistols are useful only for criminal purposes. They forget or ignore the many other substantial and compelling reasons for their existence.

A number of years ago—in 1921 to be exact—a Mr. John R. Thompson, of Chicago, published broadcast an advertisement in which he offered "\$1,000 to anyone who will give one good reason why the revolver-manufacturing industry should be allowed to exist in America," and he added "to enjoy the facilities of the mails." This gentleman was reported to have been a recent victim of a holdup while enjoying a friendly game of cards, and being a man of wealth and considerable energy, he immediately determined to stop that sort of thing by ending the manufacture and distribution of pistols and revolvers. Although he had already espoused the cause of pistol prohibition and had decided for himself that there was no good reason for the existence of pistols, he undertook to offer this prize and to pass judgment upon the merits of such replies as he should receive. The writer addressed to him a letter in which he pointed out some legitimate uses of pistols which have already been mentioned and called attention to several of the compelling reasons for the manufacture and use of pistols and revolvers. We were never favored with a reply from the author of the advertisement, but we had the satisfaction of noting that no further advertisements upon the subject ever appeared. We did not expect that Mr. Thompson would award us the prize. We thought it quite likely that that gentleman would, in due time, publish an equally widespread advertisement stating that no good reason had been submitted to him for the manufacture of revolvers and that he would thereupon call for legislation to abolish the mischievous implements for whose existence there was no good reason. There was some degree of satisfaction in noting that he did not venture upon this course. While he did not openly admit his error, he

promptly abandoned his campaign. His experience is typical of many. The man who is most ready with a cure-all, the man who is prepared to make sweeping statements upon the subject, and the man who knows that crime can be ended immediately by abolishing pistols is almost without exception the man who knows nothing about the subject, who understands nothing about pistols, and who has never discovered that they have many important and legitimate uses which far outweigh the unfortunate fact that they are a too frequent tool of violent crime.

Pistols for Defense

The statement that a pistol has no value for defensive purposes has been frequently made and is sometimes thoughtlessly accepted. At a meeting of the Firearms Committee of the National Crime Commission held in Chicago in January, 1927, an eminent gentleman inquired whether anyone present had ever heard of a single case where the pistol had been successfully used in self-defense and seemed to be much chagrined at the fact that one of his auditors was prepared to tell him about many such cases. The *New York Evening Sun* of May 22, 1925, reported the late Chief Magistrate McAdoo of New York as saying: "We will never get anywhere in fighting the pistol until we convert public opinion to the belief that the revolver has no value as a weapon of defense." The *New York Times* of May 19, 1922, reports Police Commissioner Enright as saying: "Having a gun in the house is no protection. A man is awakened in the middle of the night, and even though he had a gun, it is probably in a closet or drawer. Even if he had it by his side, the crook has got the drop on him and he has no chance to use it. If he could use it, he probably couldn't shoot straight enough to hit the side of a barn door." A letter published in the *New York Times* of May 26, 1922, from George P. Le Brun, who claims to have aided in the preparation of the notorious Sullivan law, says: "It has been proved time and again that a pistol in the house is no protection." The *New York Times* of September 11, 1925, reports District Attorney Banton as saying that "he never had heard of an innocent man who had been able to make good use of a pistol to defend himself or his property." In August, 1922, a committee composed of Judge Swaney, of Chattanooga, Judge Kavanagh, of Chicago, ex-Governor Whitman, of New York, Wade H. Ellis, of Washington, and Charles W. Farnham, of St. Paul, declared that the pistol "serves no useful purpose in the community today." And the *New York Times* of June 24, 1925, again reported

Magistrate McAdoo as saying: "I reiterate the pistol is of no value whatsoever to law-abiding people." Such statements as these receive wide publicity and a certain credence from those who know nothing about the subject or who have no opinions of their own.

The facts are quite different from the statements which we have quoted. Few people, to be sure, have taken the trouble to collect any data respecting the use of pistols in self-defense. Such instances are usually to be found in the newspapers, and it is obvious that any one person can scan but a few of the thousands of newspapers which daily and weekly appear in the United States.

We may know that the statement is untrue, but being unable to put our fingers upon the specific evidence which will prove its falsity, we are embarrassed for a convincing answer, and, consequently, a man who says that the pistol is worthless for self-defense "gets away with it" for the time being at least. One recalls vaguely many exciting stories relating to earlier days. Some of the characters in those stories were desperadoes and they killed with the pistol just as gangsters now kill with the pistol. Nevertheless, many other characters were of a different stripe and enforced the law or kept order, defended their own lives or the safety of their families by their ability to shoot a pistol and to shoot it straight. These stories of Zane Grey, Emerson Hough, and many others, some of them fanciful, some of them true, lurk vaguely in the minds of all of us, but they do not afford sufficient ready material for a convincing answer to the anti-pistol men. The records of self-defense in more recent days are less dramatically told and are apt to be lost with the newspapers that contain them. Any man, however, who will make it a point during the course of a year or two to clip the accounts of successful defense by the pistol will be surprised at the growth of his scrap-book. The author has tried to do this for the last half dozen years or so. The following are but a few of the many instances which, without any special effort and without the aid of a clipping bureau, he has chanced to encounter.

A Few Examples

The *New York Times* of March 19, 1924, reports the following: "A holdup man who said last night to Louis Bernet in his store at 126 Willis Avenue, the Bronx, 'Gimme all you got' never spoke again. Fishing a pistol from a desk drawer in the pitch-black room into which he had been backed, Bernet emptied it with such deadly accuracy that four bullets lodged in the robber's heart and he dropped dead without a cry. A confederate, jerking open the door when Bernet

began to shoot, fled through the store into the street and escaped.
* * * For Bernet, who is 63 years old and lives alone in three rooms behind his store, the police had only praise. He was not arrested and will not be. 'They held me up last year and the year before,' said he. 'Tonight this fellow said, "Gimme all you got"—well, I gave it to him.' Here was a man who had twice been held up without the means of self-defense. He probably had the anti-pistol crowd to thank for his helpless condition. He came, however, to the conclusion that their statements were nonsense, provided himself with a pistol, and the story quoted above was the result.

In 1924 the United States Fidelity and Guaranty Co. printed a booklet entitled, "A Little Message to Bankers," in which it pointed out the folly of the anti-pistol propaganda. At the end of this booklet appears the following: "Since 'A Little Message to Bankers' was first conceived and prepared, there has been a case so strikingly in point that we record it. On the afternoon on March 4, 1924, four gunmen attempted to rob the People's National Bank of Hamtramck (within the city of Detroit). There were on duty the cashier, teller, and two clerks. One holdup man stood guard at the door, one remained in an automobile, and two covered the cashier and teller with pistols. The cashier, instead of throwing up his hands, dropped to the floor of his cage and pushed a button which sounded an alarm in a police station nearby. One of the gunmen climbed the cage, and as he touched the inside floor the cashier and teller simultaneously fired, killing the bandit instantly." One of the remaining bandits was fatally wounded, a third was captured, while the fourth in the car escaped. The booklet adds that the United States Fidelity and Guaranty Co., which insured the bank, sent a check for \$1,000 to be divided between the cashier and teller.

The *New York Times* of October 15, 1925, reports that on the preceding evening two robbers attempted to hold up Henry Israel's drug store at 903 Teller Avenue, the Bronx. "Israel was held up and robbed last Friday night and since then borrowed the pistol of his brother David, a deputy sheriff. He had the pistol close to hand when the holdup men walked in. As soon as they got inside he recognized them as the men who had robbed him on Friday and at once reached for his pistol. By the time the shorter of the two men could call to him to hold up his hands, Israel fired two shots. He saw the short man put his hand to his abdomen and both ran from the store." The wounded man was soon after discovered and arrested.

We hardly need to speculate on Henry Israel's present state of

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We hardly need to speculate on Henry Israel's present state of

mind. He tested the theory of the anti-gun group and was held up and robbed. He realized the folly of the theory that "a pistol is useless for defense" and armed himself with the result recorded above.

The New York *Herald-Tribune* of October 6, 1925, printed an Associated Press dispatch from St. Louis, Mo., dated October 5, which reported that James Quinn, a former member of the Navy and now the proprietor of a road house, had killed three out of five men who attempted to hold him up and rob him. The other two escaped. Apparently Mr. Quinn's service in the Navy had left him quite unimpressed by the doctrine that a pistol is not only a useless but a dangerous weapon in the hands of a law-abiding citizen and that it has no value for self-defense.

The next case is taken from the New York *Evening Sun* of July 30, 1926. Three bandits attempted to hold up a truck loaded with alcohol. "As the three men jumped out and rushed at him with their guns in their hands, Markowitz (the driver) 'let them have it'—six shots in all, three of which hit the bandits and one the car. * * * He (Markowitz) told the police that four years ago bandits had held him up in Brooklyn and stolen a truck of alcohol in his charge and that since then he had been on the alert for a similar holdup. He also said he was especially careful this morning because a Government truck had been held up yesterday on its way to the distributing company to which his load was consigned." The report states that two of the men were wounded and that all three were captured.

The *Evening Sun* of July 31, 1926, commented editorially as follows: "The Federal Products Co. of this city has in its employ a chauffeur who knows how to stop banditry. * * * If there were more chauffeurs as adequate as he is, there would be fewer gunmen in the streets."

The next case is taken from the *Washington Post* of December 29, 1927. "Two negro burglars, attempting to force their way into a store at 1307 New Jersey Avenue N. W., were put to flight early yesterday morning when Miss M. H. Williams, proprietor, who was alone in the place, opened fire on one of them with a .38-caliber revolver and ran into the street in pursuit when they fled. * * * Miss Williams said that the New Jersey Avenue store was broken into last week. * * * Although of slight stature and of mild appearance, Miss Williams determined to check these outrages if given the opportunity. She placed a .38-caliber revolver on a table at the bedside as she retired. * * * Shortly after 1 o'clock Miss Wil-

liams said she was aroused by a scraping sound in front. * * * She ran to the door * * * saw the robber perched atop the window trying to unfasten a transom."

It is interesting to notice that in almost all of these instances the person involved has already been the victim of a holdup. The absurdity of the argument that the way to stop violent crime is by disarming everybody—but chiefly the innocent and law-abiding victim --is brought out very forcibly in these cases.

The New York *Evening Sun* of March 8, 1928, reported the following from Wildwood, N. J.: "While Iver J. Russell, 24 years old, lay wounded on the floor of his gasoline station on South Wildwood Boulevard, between Wildwood and Cape May, last night, his wife exchanged shot for shot with two holdup men and drove them empty-handed from the place. * * * The robbers entered the place about 10:30 p. m. wearing black masks and hoods reaching down to their shoulders. Russel was alone in the gas station, his wife being asleep in an adjoining room. * * * The noise awakened Mrs. Russell. Taking in the situation hurriedly she snatched up a revolver and ran to her husband's aid."

The Washington *Post* of April 4, 1929, recounted the case of Sol Buckner, proprietor of a soft-drink stand, whose place was entered by two negroes with the command "stick 'em up," reinforced by a pistol. Instead of obeying, Buckner ducked behind the counter and reached for a pistol which he had at hand for just such emergencies." The result of the encounter was the death of one of the robbers, while the other escaped.

A final example is taken from the New York *Herald-Tribune* of April 6, 1930. A robber entered the jewelry store of Murray Kalish of 3828 Broadway, forced him into an anteroom and bound his hands, but failed to search him. While the thief was endeavoring to open the safe, Kalish succeeded in freeing his hands, drew the pistol with which he had fortunately provided himself and shot the bandit. The report says: "Kalish used the same revolver with which he assisted three weeks ago in the arrest of a man suspected of forging American Express checks. * * * Kalish said he had been carrying the revolver because of the great number of daylight robberies. He had his first chance to use it several weeks ago when a man who said he was George Morris entered the store and attempted to cash a \$20 American Express check."

The foregoing incidents and an almost innumerable number of similar ones completely disprove the loose statements which are made

by the anti-pistol crowd respecting the value of pistols for defensive purposes. The fact that the late President Roosevelt often went armed and that he placed a loaded pistol at the side of his bed at night is well known to many people.

Before leaving this subject, it is worth while to refer to another example which shows the value of firearms, including pistols, for purposes of protection and defense. Some years ago the State of Indiana was suffering from an epidemic of bank robberies. During one year robbers had attacked thirty-eight banks and successfully made away with over \$100,000. Conditions were growing worse. Nine robberies took place in ten days, just before the bankers decided to organize. Insurance rates were climbing. Robbery insurance in Indiana cost \$3 a thousand with the threat that it might be raised to \$6, whereas similar insurance in Iowa, which had already organized its forces of defense, cost only \$1 per thousand. The State Banking Association, consequently formed organizations known as "Vigilantes," had them deputized as peace officers, made them members of the National Rifle Association, armed them with Krag rifles and .45 revolvers, and commenced a serious course of training. The result was immediate and startling. In one year the monetary loss from bank robberies in Indiana was reduced 84 per cent and the number of attacks upon banks was reduced 79 per cent. Of the seven attacks that took place in the first year of the organization, five occurred in counties which had not completed their organization.

It is not indeed amazing that anyone can be found who knows anything about the facts who will have the effrontery to assert that a pistol serves no useful purpose whatever, that it has no value as a defensive weapon, and that it should be abolished?

POLICE SCIENCE



CALVIN GODDARD [Ed.]

PISTOL REGULATION: ITS PRINCIPLES AND HISTORY

PART III.

By Karl T. Frederick

“Let's Have a New Law”

Let us continue our study of the argument made by the anti-pistol reformer. He says that criminals ought not to be allowed to obtain or possess pistols and that honest people have no good reason for having them. His conclusion is: “Let us pass a new law which will make it impossible for the criminal to get a pistol. This will deprive him of his most important tool and will prevent such crimes of violence as are now perpetrated with the use of pistols.”

The childlike confidence which many people possess in the efficacy of a new law would be amusing if it were not so serious in its harmful effects. One is reminded of the story of the negro who was elected in reconstruction days to a Southern legislature. Someone asked him what the legislature was going to do that winter. His reply was to the effect that it was going to be a very busy session—“we have got to pass a lot of new laws because the old ones are all broke.” If all statutes operated with complete effectiveness in the manner in which their framers intended the problems of society would perhaps be greatly simplified. At least those problems would be very different from what they are now; but we cannot overlook the facts

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of human experience. Very few laws are wholly effective. If criminal laws were completely effective, there would be no occasion for jails and there would be no criminals, because everyone would obey the law. The simple and fundamental law against murder has never made murder obsolete. It has continued in every generation and in every part of the world since the time of Adam. The same is true of practically all other criminal statutes. It is certainly true of the old and well-established and well-understood laws against assault, rape, or robbery. Law does not prevent the act which is characterized as unlawful. It provides a penalty for those who commit the act, and, as we saw in an earlier part of this study, the imposition of this penalty is extremely uncertain.

In connection with organized crime, we saw that crimes of violence as a class were unpunished 85 times out of every 100. These are the facts from which there is no escape. It does not help us to say that we wish the facts were otherwise or that the situation generally is susceptible of improvement. That is quite a different problem from that which we are considering. We admit that we wish they were otherwise, but unless the pistol reformer is prepared to extend his program to the point of making all criminal laws completely effective, then in asking us to rely upon a new law, he asks us merely to lean upon a broken reed. So long as crimes of violence are known, so long as human passion and greed exist, so long will there be need of defense, and so long as the need for defense exists honest people will need pistols. This statement taken literally is perhaps exaggerated because it is possible that more effective means of defense can be devised; nevertheless, until that is done, the pistol will continue to be what it now is—one of the most effective weapons of defense which is known to man.

As to the statement that criminals ought not to have pistols, we can freely and heartily agree, as an academic proposition. but the problem of turning what "ought to be" into an accomplished fact is frequently a problem which seems to be insoluble. Men ought not, perhaps, to die of cancer, but the problem of eliminating cancer from the list of human ills has so far proved insuperable. Men, women, and little babies ought not to be murdered, but the electric chair has not stopped the rising tide of homicides. Criminals ought not to use knives or poison—indeed, they ought not to be criminals at all. The problem of accomplishing the desirable end is a very difficult one. It has never been solved. Therefore, the conclusion which is handed us in such convenient tablet form, "Let's pass a new law," might be

dismissed as idle chatter were it not that the notion that the remedy for every social ill is to be found in "a new law" is so widespread and so firmly established in the mind of the average "reformer."

We have already said that almost no law is completely effective. That fact in itself is, therefore, not a sufficient reason for refusing to pass a pistol law. The question of the desirability of a law depends in part upon its probable degree of effectiveness. That in turn depends largely upon the extent to which it will receive the voluntary and general acquiescence and obedience of the public. No law can be enforced which is not voluntarily obeyed by the overwhelming mass of the people. Compulsion is only practical when the need for its application is limited to a comparatively small remnant of society. Laws which are incapable of enforcement with any considerable degree of success are undesirable because they are not only failures in themselves but because their failure tends to bring disrespect upon and to break down law and organized society in general. Merely to forbid a criminal to possess or use a gun will not work. If a man will not hesitate at murder or robbery because of the serious penalties which he may incur, he will generally not refrain from using pistols in the accomplishment of those serious or deadly crimes. The problem of separating the criminal from his gun is, as a practical matter, almost impossible of solution. The "reformer" recognizes this fact. He knows that he cannot prevent crooks from having or using as many guns as they desire, but he proposes nevertheless to solve the problem, in general, by forbidding everybody to have a pistol. He admits that he does not know how to disarm the crook, and he, consequently, proposes to disarm the honest man. He is either ignorant of or closes his eyes to the facts which we have recounted at considerable length regarding the desirable uses of the pistol. He ignores the fact that something like 98 per cent of the users of pistols are entirely honest and law-abiding people who are using them in entirely legitimate and desirable ways. He finds two crooks in an assembly of one hundred people, and he, therefore, turns the fire of his guns upon the entire group of one hundred, ninety-eight of whom are innocent, honest, and law-abiding citizens, and he attempts to justify this procedure because of the presence of the two dishonest men whom he knows he cannot reach even by this wholesale method. Because the building harbors rats which he is unable to reach, he proposes to cure the situation by burning down the structure in spite of the fact that the rats will probably escape anyway.

Laws are obeyed in general by law-abiding citizens. Pistol laws are no exception to this rule. Laws forbidding the manufacture, purchase, possession, or use of pistols would undoubtedly be obeyed by many people, but they would be obeyed by honest people and not by crooks. They would be effective in that class or part of the population where there is no need for them and where obedience to them would be distinctly harmful because it would stop the 98 per cent use of pistols which is legitimate, proper, and desirable. The law would fail in respect to that single class which alone furnished the excuse for its adoption.

"BOOTLEG" GUNS AND AMMUNITION

It is not our intention at the present moment to go into the details of the various concrete proposals with respect to pistols which have been made. These will be considered later. At this point we wish merely to consider some of the general aspects of the case.

Pistols have been manufactured for many years. Millions of them exist not only in the United States but in all other parts of the world. They are not, like liquor or drugs, consumed in a single using. They are effective for thousands of occasions, and, with reasonable care, they continue to be usable for many years. To stop the manufacture of pistols, therefore, would not solve the problem because there are plenty of pistols in existence to last the criminal fraternity for hundreds of years to come.

In the second place, such prohibitory laws as might be adopted in the United States could not solve the problem because a continuous supply of foreign pistols would be available to the very class of users which ought not to have them—namely, the crooks. Pistols are easily concealed, and consequently can readily be smuggled. A continuous supply, quite adequate for the needs of the criminal class, would filter across our borders and be put to use for the purpose of plundering a disarmed and defenseless population.

In the third place, even if the impossible were accomplished—even if every pistol in the United States were destroyed and an effective fence a thousand feet high were erected at the border to keep out every gun of foreign manufacture—the problem would still be unsolved.

There is nothing of a practical nature to prevent the crook from making his own pistol out of common materials which can be readily procured by anyone. What we may call the "home-brew" pistol would be as common and as easily obtained by the crook as the

manufactured article, frequently of cheap and inferior foreign make, now is. There is no special trick or mystery in the manufacture of pistols. Any person whose mechanical ability would entitle him to be classed as a third-rate automobile mechanic can make a practical and effective pistol in a few hours, which would amply meet the general requirements of the so-called gunman. This statement will not, of course, come as a surprise to anyone who has any considerable knowledge of firearms, but it may be news to those who wish to abolish them, inasmuch as these persons are obviously, in many cases, utterly ignorant of the weapons they wish to destroy. The illustration and accompanying description here reprinted is taken from an article entitled "America is a Lawless Country," which was printed in the *RIFLEMAN* of August 15, 1925. It is obvious that this little two-barreled weapon would be quite sufficient for the purposes of any ordinary holdup artist. Two of them could be readily made by an ordinary mechanic of little experience between sunrise and sunset. More elaborate and finished pieces can, of course, be turned out with the expenditure of additional time and labor and a somewhat more adequate but readily procurable supply of materials and tools. In this connection we take the liberty of reprinting an editorial which appeared in the *Bridgeport, Connecticut, Post* of May 16, 1930:

"A man walked into the office of the editor of the *Post* the other day and presented a pistol at the editor's head. Fortunately for the editor, the pistol wasn't loaded, and the person behind it was neither a holdup man nor an indignant subscriber. He was Paul Naramore, Bridgeport manufacturer and small-arms expert, whose letters on the subject of pistol legislation have appeared frequently on this page.

"The pistol which Mr. Naramore carried was a peculiar looking affair, but examination of it showed that it was perfectly capable of firing a bullet with destructive effect. It was, in fact, a 'home-brewed' pistol which Mr. Naramore had constructed in the cellar of his home with materials available in the rubbish pile or work bench of the average house. He made it with the expenditure of not more than a few hours' time and demonstrated to the editor's satisfaction that what he had done others could do if they had a mind to.

"The editor in an unguarded moment had written that prohibitive laws governing pistols could be more readily enforced than other prohibitive laws because the manufacture of pistols was an elaborate process, which could not be duplicated in everybody's cellar. Mr.

Naramore disproved this statement, and the editor hereby retracts it. Pistols can be made at home.

"The incident taught the editor a lesson: that a man is on the safest ground when he is sticking to his principles. The *Post* editor for his part has generally maintained the principle that in seeking to remedy an abuse, the law should confine itself to that abuse and not, by the issuance of a general prohibition, forbid the exercise of rights and privileges which could not be construed as constituting an abuse.

"The editor departed from this principle when he advocated the prohibition of pistols instead of advocating a more stringent policy of punishing their misuse without interfering with their proper ownership.

"Mr. Naramore demonstrated that pistol prohibition would only disarm the honest citizens while leaving the crooks free either to obtain pistols by surreptitious methods or by manufacturing them in their own cellars. Like other prohibitions, this one would defeat its own purpose."

This frank statement is not only interesting as affording an illustration of the truth of the statement which we have made; it is, perhaps, equally interesting because of its frank and forceful statement of certain principles which are frequently ignored by those who want pistols abolished by legislative fiat.

A BIT OF HISTORY

We remarked that the anti-pistol crowd is generally ignorant of the subject of guns. The statements which are made by them from time to time are both amazing and amusing. For their benefit, it is perhaps worth while to review very briefly the history of pistols.

The earliest form of pistol was what is known as the matchlock, the type in which the powder was ignited by a match or burning wick. It is thought that the first matchlocks were made by the Chinese. It is certain that matchlock guns are still in use in some parts of the world, particularly in the interior of China, Mongolia, etc. Pistols came into common use in Europe toward the end of the fourteenth century and by 1550 were used by the French cavalry. Early in the sixteenth century the unsatisfactory matchlock was succeeded by the wheel lock, which was invented about 1515. In this form of weapon powder was ignited by a spark caused by a wheel which revolved against a flint. About 1630 flintlocks were introduced. In this form a spark was produced by a flint striking against steel. It remained the common form of weapon for more than two hundred years.

Indeed, the percussion system, which was invented in 1807, made slow progress against the flintlock, which was said to have been satisfactory for generations. It was not until about 1840 that the percussion system became popular through the use of the copper cap. Metallic cartridges were first known about 1850, but cap-and-ball pistols continued to be extensively used—indeed, they were used in the United States Navy as late as 1872, and are still frequently found in the backwoods. The first automatic pistol was invented in 1893. Until seventy-five years or so ago pistol factories in any modern sense were unknown. Pistols, like firearms generally, were made by individual workmen in small shops. Hundreds of such makers have been identified.

The suggestion, therefore, that the manufacture of pistols should be forbidden would have no practical effect in that direction other than by closing such factories as Colt, Smith & Wesson, and others. The continuance of such factories is regarded by the War Department as vital to American military plans of defense. To discontinue these factories, however, would not prevent any criminal from providing himself with a workable pistol for use in his trade.

Those who have advocated the abolition of pistols have in numerous instances realized that they were also faced by the problem of ammunition, and we have, consequently, been treated to a variety of collateral suggestions, such as to tax out of existence cartridges which can be used in pistols, or proposals to forbid the manufacture of cartridges for pistols. Here, again, one is astonished at the profound ignorance of those who suggest such remedies. In the first place, cartridges for pistols do not comprise a distinct variety. A great many cartridges can be and are used both in pistols and in rifles. Some of these are the .22 short, long and long rifle, the .32 short and long, the .32-20, the .38 short, long and special, the .38-40, the 44-40, and several others. In the second place, "cartridges," or what is known as "fixed ammunition," are not and never have been essential for firearms. Unless the "reformers" are prepared to change the laws of chemistry and to make it impossible for any chemical compounds to explode, they will find it impossible to abolish pistol ammunition. Pistol-users are not under the stern necessity of purchasing their cartridges ready-made. It is an easy and simple process to load one's own cartridges with either smokeless or black powder. Such powder can readily be obtained, or, if there were any difficulty obtaining it in bulk, it could readily be secured from shotgun or rifle cartridges. Indeed, if powder in the ordinary understanding of the word were

entirely unavailable, a substitute could readily be found. A 25-cent celluloid collar will provide sufficient ammunition for a season's shooting of any ordinary gang of gunmen. The shavings of scrapings from a celluloid collar furnish a very effective, if not entirely reliable, explosive with which a bullet may be started on its murderous course.

Gunpowder is one of the simplest of things to make. It can be and has been manufactured for hundreds of years in the home. It requires no more knowledge or skill than is possessed by a schoolboy. When the "reformer" talks of forbidding the manufacture of pistol cartridges, he does little beyond displaying his own ignorance.

Gunpowder has been so long known to the world that its origin is lost in the mists of antiquity. Like early pistols, it has been attributed to the Chinese. It is quite certain that the peculiar qualities of saltpeter when mixed with other substances, such as charcoal, were known to the early alchemists. Roger Bacon in 1249 wrote an account of it. In the early days gunpowder consisted of a simple mechanical mixture of approximately equal parts of saltpeter, sulphur, and charcoal, substances which are easily procurable at the present day. It was later improved by what is known as the "corning" process, which was invented about the middle of the fifteenth century. By this process the mechanical mixture was dampened, worked into grains, crushed to the requisite size, sieved for uniformity, and glazed by adding graphite in the corning mill to prevent deterioration from damp.

For hundreds of years powder was commonly made by the individual for his own use. Those who made it frequently employed an interesting device known as an "éprouvette," in which a small charge of powder was set off with a flintlock. This revolved a wheel against a spring and registered the strength of the powder. These "éprouvettes" are frequently to be found in the hands of collectors.

Smokeless powder, of course, is a more difficult chemical compound. As has been suggested, it can readily be procured from rifle or shotgun cartridges, but its use is by no means necessary to the criminal. Ordinary black powder served the world very well for hundreds of years and will easily supply the needs of any crook who experiences difficulty in providing himself with the more modern powders.

This portion of our study and discussion may for the time being be summed up substantially as follows: Laws which attempt to disarm criminals by making it impossible for them to procure pistols or ammunition are inevitably bound to fail. Instead of accomplishing

the desirable object of disarming the crook, they can accomplish little in that direction. Such laws, however, will disarm the law-abiding citizen and tend to make him helpless against the raids of the criminal. The legitimate uses of the pistol vastly outnumber its illegitimate uses in the approximate proportion of 98 to 2. Laws which seek to abolish pistols, consequently, are not only impractical, unworkable, and unenforcible, but are, in addition, harmful to society because they place the honest man at a distinct disadvantage in the face of crime. They inflict injury upon the honest part of society without interfering to any appreciable extent with the dishonest and criminal element of society. Their result is exactly the opposite of that which is intended.

THE CONSTITUTION

Before we take up the consideration of various particular statutory regulations or restrictions which have at one time or another been proposed or adopted, it will be well to refer to a constitutional provision which is believed by many laymen to afford general protection against laws which are intended to abolish or restrict the possession and use of pistols. The provision referred to comprises the Second Amendment to the Constitution of the United States and reads as follows:

"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."

The first ten amendments to the Federal Constitution constitute what is generally termed "A Bill of Rights," and were adopted shortly after the adoption of the Constitution to relieve the minds of many who feared that in creating a Federal Government a new creature was being brought into existence which might disregard principles of English liberty which had been established after long and bitter struggles. This part of the Federal Constitution, however (referring to the right of the people to keep and bear arms), does not afford protection against State laws with respect to pistols or other firearms. The reader will recall that the original States thought of themselves as separate, complete, and independent sovereignties who voluntarily joined in a Federal Union. To this Federal Union or Government they each gave up under the Constitution certain rights and powers, but anything which was not definitely surrendered to the Federal Government was reserved to the States. This was explicitly recognized and stated in the Tenth Amendment, which declares:

"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."

Consequently, the Federal Government cannot pass laws applicable outside of Federal territory respecting ordinary matters, such as marriage and divorce, laws against robbery or murder, or laws regulating intrastate commerce. The provision regarding the bearing of arms contained in the Second Amendment applies only to the Federal Government. It has nothing to do with laws which may be passed by the respective States for the regulation or abolition of pistols.

To carry the matter still further, we find that a number of State constitutions contain provisions similar to that found in the Second Amendment. In New York State such a provision, while not contained in the Constitution, is found in a general statute known as the "Civil Rights Law." The question of the constitutionality of laws regulating pistols may frequently, therefore, be raised in the State courts. Indeed, it has been raised on a number of occasions. The decisions of the courts have generally been to the effect that the particular laws under consideration regulating the possession or use of pistols were not unconstitutional by reason of the provision referred to, but that in the particular cases presented they constituted an exercise of what is known as the "police power" of the State and were valid. The courts have been extremely reluctant to declare such statutes to be unreasonable. They have sometimes expressed grave doubts as to the wisdom of the legislation but have taken the position that the matter of wisdom was one for the legislature to determine.

An interesting decision to this effect which passed upon the constitutionality of the so-called Sullivan law is *People ex rel. Darling v. Warden of City Prison*, 154 New York App. Div., 413, decided in 1913. In that case the court by a decision of three to two upheld the Sullivan law as a valid exercise of the police power. The dissenting opinion of Justice Scott, however, was singularly prophetic and clear. He said:

"The practical result of the construction now sought to be given to the act will be that the professional criminal will generally violate the act and take his chances of discovery and punishment while the law-abiding citizen will be obliged to disarm himself of his only effective protection against the predatory classes. The best police force in the world cannot always or even usually anticipate and prevent crimes of violence. They can and usually do preserve peace and order and sometimes discover the perpetrators of crimes, but they

can seldom prevent. A law-abiding citizen in his walks abroad can usually avoid dangerous localities, and if he is compelled to traverse them can obtain a license to carry a defensive weapon, but in his own house, wherever it may be situated, he can never be entirely secure against the midnight marauder. For protection there, he is compelled to rely upon himself and upon such means of defense as he may have at hand. The construction now sought to be given to the act would deprive him of such protection."

Much as we regret the bearing and effect of the law as enunciated by the courts upon this point, we must recognize the fact that constitutional provisions which set forth the right of citizens to keep and to bear arms will not protect us against vicious and undesirable statutes affecting pistols. Protection lies in an enlightened public sentiment and in intelligent legislative action. It is not to be found in the Constitution.

THE PRESENT TREND

Signs are not entirely lacking that public sentiment is becoming more enlightened, and this fact is certain to have its effect upon legislative action. We all know that novel nostrums are frequently foisted upon an unsuspecting or uniformed public. Time and experience, however, usually bring enlightenment, although education is a tedious and often bitter experience. Much harm can be done while the lesson is being learned. So many times have "reformers" proved to be false guides that the very name of "reformer" has fallen into disrepute. "Reformers" are frequently fanatics who are constitutionally incapable of sound judgment, unable to see any but their own points of view, and intolerant of the opinions and rights of others. Unwilling to expend the time and effort necessary to convince by an appeal to reason, or unable to sustain their theses in a fair and open forum, they resort to the short cut of "a new law" and strive to silence by abuse those whose logic cannot be answered. Such, unfortunately, has been the course of many pistol "reformers," and our statute books bear all too many traces of their misguided efforts, while crime and criminals—their ostensible and professed enemies—flourish and grow fat. This result, which they profess to abhor, is due in part at least to the activities of these self-appointed saviors of society.

Signs, as we said, are not entirely lacking, however, of the reassertion of public intelligence. Public opinion appears at times to be awakening to the folly of disarming the law-abiding in the hope

of preventing crime. One indication of this awakening is to be found in the not infrequent refusals of legislatures to adopt extreme, absurd, and drastic bills. Such a bill, which died a sudden death in committee, was lately introduced in New York. It would have forbidden the very possession of a pistol by a policeman until he was a qualified marksman and would at the same time have made it a crime for him to practice for qualification. Its theory was that one should never go near the water until after one has learned to swim.

Another hopeful indication is to be found in the increasing irritability of "pistol prohibitionists." One constantly hears that the suppression of the pistol evil is prevented by rich and active "lobbies" which haunt the legislative halls. Such statements, of course, are not credited by anyone who has any knowledge of the facts, but they doubtless impress a certain class who are prepared to believe any statement if only it is sensational. One may safely assert that no evidence can be produced by any extensive or organized lobbies in connection with pistol legislation other than those which have been organized by the "pistol prohibitionists" themselves.

Such an incident as the following is encouraging and suggestive. The late Chief Magistrate McAdoo of New York, appearing before the New York State Crime Commission in October, 1926, stated, "We can't make any headway in preventing the use of pistols because of the lobbies in Albany and Washington." He was interrupted by Assemblyman Esmond, the vice chairman, with the remark: "It wasn't entirely because of the lobby that the pistol bill failed to pass. I handled the bill, and if it had passed, I would not have had a chance to be re-elected from my district."

Encouraging, indeed is such evidence of the force of public sentiment aroused to action. Upon such force of public sentiment and good sense must we depend for our protection against the folly of the anti-pistol agitation.

IDENTIFICATION OF SHELLS¹

ROSARIO FONTAINE²

In automatic pistols the energy of recoil serves to eject the fired shell and reload, that is, to place a new cartridge in the chamber

¹Translated from the *Revue Internationale de Criminologie*, Volume 4, No. 5, Pages 397 to 400, by L. J. Kaempfer, Scientific Crime Detection Laboratory.

²Of the Medical Union of Canada.