FIREPOWER BY MAIL: “GUN-TOTING,” STATE REGULATION, AND THE ORIGINS OF FEDERAL FIREARMS LEGISLATION, 1911-1927

by

BARRETT SHARPNACK

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Department of History

CASE WESTERN RESERVE UNIVERSITY

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Case Western Reserve University

School of Graduate Studies

We hereby approve the thesis of Barrett Sharpnack

Candidate for the degree of Master of Arts

Committee Chair
Peter Shulman

Committee Member
Daniel Cohen

Committee Member
David Hammack

Date of Defense
3-27-15

*We also certify that written approval has been obtained for any proprietary material contained therein.
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Abstract

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BARRETT SHARPACK

Between the passage of New York’s Sullivan Law in 1911 and the passage of the Mailing of Firearms Act of 1927, federal and state legislators had gradually adopted legislation intended to control the sale and carrying of firearms. The apparent failure of state acts to reduce murder rates and the carrying of illegal arms had spurred the creation of the United States’ first federal firearms law. As legislators attempted to develop novel firearms laws, they confronted the perceptions and prejudices of American society as they attempted to determine both what the harmful acts to be controlled were, and who was committing crime. In so doing, their actions were guided by an image of crime embodied in the complicated term “gun toter.” As they sought federal action to bolster state laws, legislators had to balance their determination to write new laws, with the right of American citizens to bear arms.
Firepower by Mail: “Gun-Toting,” State Regulation, and the Origins of Federal
Firearms Legislation, 1911-1927

On September 6, 1901, President William McKinley visited the Temple of Music, a concert hall built in Buffalo, New York, for the ongoing Pan American Exposition. There he shook hands with excited throngs of American citizens eager to meet the chief executive, who had led the nation to victory in the Spanish American War of 1898 and presided over a strengthening economy. President McKinley cheerfully greeted the callers with his customary good humor. One of these eager visitors was twenty-eight year old Leon Czolgosz, who had traveled from Warrensville, Ohio, for this very opportunity. As President McKinley proffered his hand, Czolgosz fired two shots from a .32 caliber revolver hidden beneath a handkerchief into President McKinley’s chest. Though the nearby Coastal Artillerymen and Secret Service agents immediately pounced on the assassin, his shots struck their mark. An electric ambulance rushed President McKinley to the hospital installed on the grounds of the exposition. A team of doctors and surgeons attended him and initially indicated that he would recover from his wounds, but this optimism gave way to tragedy. President McKinley’s gunshot wounds became gangrenous, and he died in the early hours of September 14.1 Like his predecessors Abraham Lincoln and James Garfield, McKinley was murdered with a pistol. As news of the president’s death spread throughout the nation, one of the many questions vexing Americans was just what kind of person had done this reprehensible act.

One answer would be provided by the young assassin himself. When Leon Czolgosz was interrogated, he revealed that his goal was to advance the cause of

anarchism in America. He claimed that the well-known anarchist speaker, Emma Goldman, had inspired him to carry out the deed. In the aftermath of his murderous act, outraged Americans demanded that all of Czolgosz’s accomplices in the anarchist movement be found and brought to justice. Multiple lynch mobs attempted to break Czolgosz out of jail and execute him on the spot, and Czolgosz’s crime incited a wave of indignation throughout the country. Czolgosz became synonymous with anarchism as Americans tried to make sense of what had happened and why. As such, his act of violence became associated with the whole of the anarchist movement, fuelling a wave of paranoia. “The community that would permit a madman at large with a pistol and torch would be strangely negligent,” an article in the Pullman Herald declared. “The anarchist is a madman with pistol and torch.”

The article’s use of the word madman was quite apt, because Czolgosz sanity became a major component of the case against him. During his trial, the defense argued that Czolgosz was insane, driven mad by his experiences as an industrial workman, and that this had allowed him to be seduced by the ideals of anarchism. The prosecution was thus forced to argue that Czolgosz had been sane enough to differentiate right from wrong. Hence, he was responsible for his actions and could be executed for them. At the same time, the prosecution affirmed that a violent anarchist ideology resulted in the murder. The seductive powers of anarchist ideology remained a key fixation of alienists and the courts, and continued to resonate even after the execution. Anarchism, it was

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2 Ibid, 128.
5 Ibid, 24.
believed, held a special attraction to the weak willed, or the idle intellect, and could transform an otherwise unremarkable Ohioan into a presidential assassin. In this way, crime could result from ill influence upon a previously law-abiding individual. The promise of change through anarchism, or numbness through drink wore away at the resistance of citizens and resulted in tragedy.

The narrative of seduction would serve as the basis for future legislation targeting the carrying of arms. The murder of President William McKinley provided a sense of who caused crime: a madman, a wrong-headed anarchist, a foreigner with a gun in hand. The narrative of seduction and the need to reign in the idle minded was embodied by the concept of the “gun toter.” This term, which referred to a man secretly carrying a firearms for nefarious purposes or out of habit, served as a ubiquitous image of the criminal and the murderer. Like Czolgosz, the gun toter failed to control himself, and his failure to carry arms in a responsible manner could result in tragedy. In order to control the gun toter, lawmakers had to find a way to prevent him from carrying arms. Doing so proved difficult because legislators were under pressure to limit the availability of arms while simultaneously guaranteeing the right of citizens to own and carry them. This struggle to control the gun toter resulted in America’s first federal firearms law, the Mailing of Firearms Act of 1927.

However, the murder of President McKinley did not result in the immediate passage of a federal law. Instead, the incident highlights the many factors that Americans thought resulted in crimes of violence. In an age of racial, union, and criminal violence, there were many factors that could conceivably result in homicide. But during the

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6 Ibid, 89.
7 Ibid, 89.
decades after the murder of McKinley, it was the threat of “gun toting” that served as the conceptual basis of the Mailing of Firearms Act. While McKinley’s murder resulted in the heightened persecution of anarchists in America, the Mailing of Firearms Act was intended to reduce crime by controlling a previously socially permissible practice. This act, and the many state firearms laws that emerged between 1911 and 1927, concerned themselves not with the madman so much as the act of carrying a concealed weapon. Congress passed the Mailing of Firearms Act in response to a growing stigma against the sale of firearms, specifically pistols, without regulation. Numerous states, including California, Tennessee, New York, and Oregon, enacted laws targeting the sale of firearms to criminals, while newspapers and magazines began removing ads for firearms from their publications. By 1927 the distribution of pistols through the mail was so stigmatized that Sears Roebuck and Butler Brothers, two of America’s best known mail order houses, dropped pistols from their catalogs. Editorials in the New York Times and the Evening Star of Washington, DC demanded new laws to prevent criminals from acquiring pistols. These pieces rarely invoked statistics to further their argument, but rather drew upon the near constant stream of murders and outrages they reported on. Their advocacy for firearms legislation was emotional, visceral, and generally based upon an imagined scenario involving a common law-abiding citizen coming face to face with an armed criminal. Despite the absence of empirical data, these publications promoted firearms laws as the solution to crime and violence, and the gun toter served as one of the chief rationales.

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As a result, between 1911 and 1927, a series of firearms laws were proposed throughout the United States which attempted to regulate the carrying of firearms. These measures culminated with the Miller Bill (also known as the Mailing of Firearms Act), which was intended to bolster the laws of the states. What made the Mailing of Firearms Act possible were new kinds of state laws attempting to control the flow of pistols over their borders. As American legislators wrote and debated firearms laws, they attempted to determine what role the common citizen should have in combatting criminal activity. Lawmakers faced a significant and complicated problem. Controlling the “pistol toter” was not simply a choice between prohibiting the pistol or arming law-abiding citizens to fight criminals. Instead, lawmakers thought about how citizens should be armed and, more importantly, how to craft an enforceable gun law. These legal efforts were complicated by the demand to protect the right of law-abiding citizens to own and carry arms for self-defense. The gun toter was objectionable because he carried arms at all times, not just when his life was threatened. As a result, lawmakers sought a way to allow citizens to carry arms when necessary, while preventing them from abusing that right. Meanwhile, the different states each had their own firearms laws to enforce, and these could vary wildly.

As state legislatures attempted to regulate the sale and ownership of firearms, the interstate shipment of guns became one of the key challenges to state control. States like New York, Tennessee, and Kentucky each enacted laws restricting the sale of handguns and rendered the ownership of “concealable pistols” illegal without a permit. However, handguns could be owned without such restrictions in nearly every other state in the union. The only thing that the unified the state acts was the conviction that concealed
firearms should be controlled. This belief characterized the federal government’s handling of firearms laws as well. The Mailing of Firearms Act declared that concealable firearms could no longer be mailed through the United States Post Office. It did not restrict the shipment of any other kind of firearm. Indeed, legislators sought to control only the trade in *concealable* weapons. By examining the advent of firearms laws at the federal level, we can explore the ways that legislators thought about crime and examine the exact behaviors that gun laws targeted. Ultimately, Congress was unable to enact a more comprehensive federal law restricting the trade in firearms because it could not agree on who could legitimately own firearms and who was a potentially dangerous “gun toter.” The first federal firearms law was intended to restrict the carrying of concealed weapons in order to control the social menace of the gun toter, a threat akin to the intemperate man and the anarchist in his lack of self-control and penchant for destruction.

The enactment of the first federal firearms legislation has received very limited attention from scholars who have written about the history of gun-control efforts in America. This is due partly to the limited number of works focused on the history of firearms, and, more importantly, to the recent scholarship’s close relationship with the ongoing gun debate itself. As Kristen Goss has shown, the modern gun debate took its shape during the 1960s, and the few historical works concerned with firearms have generally privileged the history of the Revolutionary era and the early republic, especially the Constitutional Convention of 1787 and the origins of the Second Amendment, in

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order to provide a historical background for the modern debate.\footnote{Kristin A. Goss, Disarmed: The Missing Movement for Gun Control in America (Princeton University Press: Princeton and Oxford, 2006), p. 7.} Even such broad studies as Kennett and Anderson’s *The Gun in America* focused on the early history of firearms in the United States with only brief coverage of the Mailing of Firearms Act.\footnote{Kennett, Lee B. and James LaVerne Anderson, The Gun in America: The Origins of a National Dilemma (Greenwood Press: Westport, Connecticut, 1975)} In addition, Alexander Deconde’s *Gun Violence in America* was largely intended to trace the militia ideal from the past to the present with little discussion of how firearms laws first emerged in America or of the original motivation for federal intervention.\footnote{Alexander Deconde, Gun Violence in America (Northeastern University Press: Boston, 2001)} A considerable portion of the scholarship on firearms in the United States is legal history, and works like Stephen Halbrook’s *That Every Man be Armed* and William J. Vizzard’s *Shots in the Dark* have attempted to present both a historical interpretation of the gun in America and an argument about the present state of firearms laws.\footnote{Halbrook, That Every Man Be Armed (University of New Mexico Press: Albuquerque, 1984); William J. Vizzard, Shots in the Dark} While histories of individual firearms manufacturers are available, the only historical study of the firearms trade and the creation of America’s gun culture is Michael Bellesiles’s *Arming America*, which argued that firearms only became common in the United States during the 1840s as a result of extensive firearms marketing by patent arms companies.\footnote{Examples of histories of manufacturers include popular works like Thomas Henshaw’s, The History of Winchester Firearms 1866-1992 (Winchester Press: Clinton, New Jersey, 1993), and significant works on government manufacturers like Merrit Roe Smith’s, Harper’s Ferry Armory and the New Technology the Challenge of Change (Cornell University Press: Ithaca, New York, 1977; Michael Bellesiles, Arming America: The Origins of a National Gun Culture (Soft Skull Press: Brooklyn, 2003) 41. Bellesiles work was later subjected to intense examination of his sources and has since been accused of numerous violations of scholarly integrity. The discrediting of his work remains controversial, but it highlights the extremely politically charged atmosphere surrounding the history of firearms legislation.}

Still, many areas of firearms history remain underexamined. Firearms laws in the early twentieth century were part of a conscious attempt to reform American society and...
culture. Those who proposed firearms laws were attempting to put an end to habits and cultural traditions that made homicide acceptable, particularly the honor culture that remained strong in the South. As they did so, they tackled the question of what place firearms would or should have in America. In so doing, legislators struggled to balance stronger restrictions on the distribution of arms with the rights of citizens to own and use arms. They balanced the need to prevent crime against the right of self-defense. Furthermore, different states had different laws on firearms, and the increasing interconnectivity of the states lent greater impetus to laws that would restrict the sale of arms across state lines. Ultimately, these legal efforts remained committed to stamping out the “gun toter,” a term that encompassed the many ways that Americans viewed crime, its origins, and its prevention.

Meet the “gun toter”

The term gun toter (or the synonymous “pistol toter”) provided a conceptual basis for firearms laws. To its early twentieth-century users, the term offered a sense of who was responsible for crime, and who was therefore not fit to own firearms. In that sense, the term could have multiple meanings depending upon the context. A gun toter could be an irresponsible citizen who abused the right to carry arms, or a hardened criminal. In this way, the question of who was a gun toter was intimately connected to the larger question of who was responsible for crime. The term was flexible, and could reflect multiple perspectives on who bore the responsibility for the nation’s homicide rate, whether they were immigrants, criminals, or people who abused the right to bear arms.
The latter sense is exemplified in a poem published in 1911, by Walt Mason. This Canadian-American columnist often wrote in verse, and provided an excellent analysis of what a gun toter was and how he threatened society. The poem, aptly named *The Gun Toter* read, “He’s sitting in prison and sorrow is his’n, he’s wishing he never had carried a gun; he thought it was clever to pack one forever, and aim it at people in spirit of fun. And it, one fine morning, went off without warning, and plugged a bystander who turned up his toes; and now he is wailin’, the wearisome jail in, and no one has pity for him in his woes… Oh let the law step on the fool with a weapon, and bury him deeply and load him with chains. No lunatic’s greater; it seems the creator in building forgot to equip him with brains.”

Walt Mason’s poem succinctly sums up the most important connotations of the phrase gun toter and highlights three of its key meanings. First, he described the gun toter as a foolish man who carried weapons for fun rather than necessity, thereby placing bystanders in danger. Second, the gun toter commits an unintentional homicide, which would not have happened had he not been armed. Finally, Mason called for the law to punish the “gun toter.” At the same time, he did not suggest that handguns be regulated. It was the determination to restrict the actions of individuals that would define the future of firearms legislation.

As a general rule, the firearms laws of the early twentieth-century were intended to keep those firearms deemed dangerous (generally referred to as “concealable firearms”) out of the hands of those believed most likely to commit crimes. Just what was a dangerous firearm, and who was most likely to use it for ill purposes, became key components of legislation. At the same time, state and federal legislators negotiated over

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what sorts of laws could be used to counter the dangerous habit of gun toting, while preserving the right of citizens to carry arms for self-defense. Ultimately, while Mason’s poem summed up some of the most popular meanings of the term, legislators attempting to end “gun toting” had to contend with a complicated concept. The gun toter encompassed several important meanings which could overlap and even contradict each other. It typically referred to ordinary citizens, yet it could refer to criminals as well. Finally, the gun toter could be anybody or a specific group of people deemed undesirable. Each of these aspects of the gun toter became key components to conceptualizing and writing firearms laws.

Figure 1.1

Figure 1.1 is a chart produced by Google Ngrams depicting the usage of the term “gun toter.” While the term saw its greatest use from about 1907 to 1930, it referred to a kind of behavior that was well known during the nineteenth-century. In 1847, the state of Virginia enacted series of laws to punish “offenses against chastity, decency and morality,” which included a provision that any man who “habitually” carried a concealed
weapon would be punished by a fine. By targeting those who carried arms “habitually,”
the law stigmatized routine arms-carrying as unreasonable and unnecessary, while
maintaining room for citizens to arm themselves occasionally for self-defense. This
tension served as one of the chief subjects of one of America’s earliest statistical studies
of homicide.

In 1880, newspaperman Horace V. Redfield published *Homicide, North and
South: Being a Comparative View of Crime Against the Person in Several Parts of the
United States*. In this work, Redfield argued three chief points: that the South had a
considerably higher rate of homicide than the North, that this homicide rate resulted from
an honor culture, and that this culture should be demolished by punishing perpetrators of
homicides severely and certainly. Southerners often excused homicides as acts of self-
defense, and according to Redfield, this resulted in the repeated release of killers who
started fights that culminated in additional deaths. In his book, Redfield described
incidents that he witnessed, including a homicide that occurred in a hotel. “In the public
dining-room of a hotel in one of the Southern states I saw a man deliberately draw a
pistol from beneath his coat and shoot an unarmed man sitting opposite him, with whom
he was having an ‘argument,’” he wrote. “The assailant was immediately released on
bail, pistol and all.” Redfield argued that such instances were quite common, and even

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19 Ibid, 196-197.
20 Ibid, 206.
cited instances where well known and respected figures committed homicide only to be released under dubious claims of self-defense.\textsuperscript{21}

Though Redfield’s work was largely forgotten until the 1980s, the men who proposed federal firearms laws during the early 1900s shared similar concerns. One of these was Representative Ben Johnson of Kentucky, who supported and proposed stronger firearms laws for Washington, D.C. During a congressional debate over a new pistol act for the nation’s capital, Johnson declared, “those who have grown up in sections of the country where the carrying of concealed deadly weapons is engaged are those who most earnestly strive to strike it down.”\textsuperscript{22} Indeed, Southern congressmen shared Redfield’s concern that casual violence had become indelibly connected to their region. Representative Thomas Upton Sisson of Mississippi admitted, “My own people are sometimes charged with being ‘pistol toters.’ We are also charged with putting too cheap a valuation on human life.” Yet Sisson believed that such violence could be reduced, along with the carrying of arms, by controlling the sale of arms.\textsuperscript{23} Ultimately, the gun toter character was quite well-known and would serve as the primary target of firearms laws North and South.

Colloquially, the term gun toter could refer to hardened criminals who used firearms to rob, or attack, but it more often referred to someone who had not yet committed a crime but was prone to do so.\textsuperscript{24} Indeed, the second character was often directly contrasted with the first in descriptions of “gun toting.” An article in the \textit{Joliet

\textsuperscript{21} Ibid, 81.
\textsuperscript{22} \textit{Congressional Record}, Vol. 48, 11 April 1912, 4593.
\textsuperscript{23} \textit{Congressional Record}, Vol. 47, April 28, 1911, 733-734.
Prison Post contrasted these possible definitions stating, “The gun toter is as dangerous as he is foolish. He is dangerous and a constant menace whether he be vicious or not. To illustrate: A man goes out as a highwayman and kills somebody deliberately, and another goes out, not intending to do any harm, but, because of having a gun in his possession, kills a man.” In short, “gun toting” made it possible for a law-abiding citizen to become a criminal. This sort of gun toter appeared particularly pernicious, because his habit could result in violence at any time. Horace Redfield described one such case. “In Macon, Georgia,” he wrote, “a man of social standing and respectability, but crazy with drink, drew his pistol and shot down an unarmed stranger whom he had never seen before… Had he not been armed or drinking it would not have happened.”

Observers like Redfield assumed that a gun toter invited and instigated violence and that the practice of carrying arms would cause the carrier to act aggressively and thereby cause a violent confrontation. However, not everyone who carried a weapon was automatically condemned as a menace. Indeed, the term gun toter could be contrasted directly with the ideal “armed citizen” that had been part of American military and political thought since the foundation of the United States.

Advocates of firearms laws distinguished between the gun toter and the armed citizen. While the gun toter always carried a weapon, the “armed citizen” carried a weapon only when it was absolutely necessary. This distinction, though difficult to establish in a legal context, was nevertheless vital in establishing who should and should not be punished for carrying a concealed weapon. For example, the morning after the July

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26 Redfield, Homicide, North and South, 18.
27 “Gun Toting” The Bismarck Tribune, 14 July 1921 p. 4.
19, 1919 riots in Washington, D.C., forty-six African American men were held in the police court on charges of carrying concealed weapons. At the time, carrying concealed arms was flatly against the law in Washington D.C., yet the Legal Committee of the District of Columbia argued that these men had carried arms only to defend themselves against the violence of the previous evening. Ultimately, twenty-seven of the defendants would be acquitted on the ground that their arms carrying was reasonable. Similar accounts may be found elsewhere in which a defendant’s guilt or innocence on the charge of carrying a concealed weapon depended not on the mere evidence that it was carried, but rather on the character and intent of the carrier. In 1911, the Governor of Arizona pardoned a man convicted on a concealed weapons charge because he had been carrying money at the time and wanted to protect it. In this instance, the pardoned man’s act was justified by necessity, something that the gun toter did not consider. Indeed, the “gun toter’s” most significant characteristic was that he carried arms without a valid reason or regard for anyone.

The gun toter resembled another famed social menace of the early twentieth century: the intemperate man. Like the intemperate man, the gun toter threatened the public because his poor judgment threatened everyone around him. Gun toting ensured that an otherwise law-abiding American would have a deadly weapon in his hands when he was angry or provoked or, especially, intoxicated. With his own judgment thus diminished, the gun toter often lashed out with deadly results. As a result, lawmakers feared gun toters because of their potential to fall prey to passion and kill someone when,

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without a firearm, they might have been less bold and less inclined to violence. Thus it was argued that the very weapon carried by the gun toter had a certain agency in promoting violence. Like alcohol, a pistol was an item that social reformers could and did try to control in order to prevent violent crime. A heated article in the *Religious Telescope* reads, “Everywhere it is the same story. First, the whiskey debauch that climaxes in temporary madness. Then the ever-ready pistol produced in the twinkling of an eye to arbitrate some petty quarrel.”  

The phrase gun toter became a popular term to explain the rationale for further firearms laws. It became common enough in the vernacular of the early twentieth century that it would be used frequently in newspapers and even Congress itself.

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Just like the intemperate man, the gun toter suffered from a certain moral and religious degeneration. As World War I began, “gun toting” in America was compared to the militarist policies that had pushed Europe towards war. *The Congregationalist and Christian World* argued that “gun toting” in America had to be brought under control and that failing to do so was as grave a risk to the nation’s moral health as militarism was to the nations of Europe. An article in *Wisconsin Congregational Church Life* of 1921 denounced carrying a firearm, even if it was meant strictly for self-defense. To do so would undermine the harmony of a community and invite more violence and more infractions of the law. Furthermore, “gun toting” threatened America’s Christian

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32 The above chart was prepared using the “Chronicling America” collection of the Library of Congress, http://chroniclingamerica.loc.gov/. The collection ends at 1922, but demonstrates the explosion of the use of gun toter and “pistol toter,” after 1900.

patriotism, which entailed the foundational values of the republic.\textsuperscript{34} The gun toter lacked self-control, and thereby threatened those around them, much like an intemperate man who threatened the lives and welfare of his wife and children. This failure rendered the gun toter immoral and out of place in a proper Christian society.

Like the term intemperate man, gun toter typically had masculine connotations, and women were more likely to be seen as the victims of “gun toters” than as potential “gun toters.” This does not mean that women were entirely absent from the ongoing dialogue on firearms. The most frequently recurring image of the gun-using woman was a “jilted wife” seeking revenge. Newspaper reports and novels sensationalized such cases, and accounts of these figured even in Congressional debates.\textsuperscript{35} Despite this, Americans considered women less violent and less dangerous than men. The contrast between women’s bearing and rearing of children to men’s violence was even used to criticize the fact that men could vote and women could not. Representative William Kent of California, describing this hypocrisy, declared, “Men bear arms and women bear children, and since the men with the arms have the power to kill the children born of women therefore they, the murderers, should rule. Pistol toting, as a qualification for suffrage—it takes a more ludicrous chivalry than that which Cervantes laughed out of existence to countenance such reasoning.”\textsuperscript{36} Furthermore, even if the “jilted wife” resorted to violence, her actions could be justified. In a way, women shooting unfaithful husbands carried out their responsibility as America’s moral arbiters. In congress, the

\textsuperscript{34} Charles W. Boardman, “Patriotism is Not Enough,” \textit{Wisconsin Congregational Church Life}, Vol. 27, No. 5, March 1921, 10.  
\textsuperscript{36} \textit{Congressional Record}, Vol. 52, Jan. 12, 1915, 1446.
image of the “jilted wife” was used as an example of a firearm-related crime that could be prevented by rendering pistols illegal. Yet according to Representative Thomas Blanton of Texas, “I want to make this statement, and I will give it to you as my solemn good judgement, that whenever a woman has used (a pistol) on her husband down in the state of Texas or anywhere else, he deserved it.” Ultimately, the jilted woman was not a gun toter because she did not make arms-carrying a habit. Her act of violence did not result from “gun toting,” but from her husband or lover’s betrayal.

Indeed, while Representative Kent contrasted men’s arms bearing to women’s child bearing, women did have an acknowledged right to possess arms to defend themselves. During World War I, Republican William Johnson Graham of Illinois argued that women working in the War Department should be permitted to carry firearms. He reasoned that because such women went home from work late at night, they were justified in carrying firearms for their defense as a reasonable precaution against attack. However, while women might be justified in carrying and using arms, they could still succumb to intemperance and violence and become “gun molls,” a phrase denoting women who either committed or were associated with men who committed acts of violence.

By the 1930s, the “gun moll” became a popular character in accounts of crime, but a “gun moll” differed from a “gun toter.” A 1911 article in the Arizona Republican defined the “gun moll” as “A woman thief.” This definition belied the often complicated meanings which the term would later embody as the “gun moll” character.

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38 Congressional Record, Vol. 56, Aug. 26, 1918, 9546.
39 Arizona Republican, March 27, 1911, p. 6
could be both bandit and folk hero, radical feminist and true woman. What defined the “gun moll” was not the act of carrying or even using a firearm. Indeed, some of the most famous “gun molls” of the 1930s, including Billy Frechette, did not carry arms but instead served as the confidants and lovers of famous male bandits. What made a “gun moll” was her involvement in criminal activity, and therefore, the “gun moll” was not the same thing as a gun toter for the same reason that the bandit himself differed from the “gun toter.” The gun toter could be an ordinary citizen, whose violence resulted from poor judgement and a lack of self-control.

A bandit would commit crimes regardless of the law, but a gun toter who lacked the common sense to decide when carrying a firearm was or was not prudent, could be deterred by the law. At the same time, outlawing the sale of concealable firearms removed arms from the hands of law-abiding citizens who used arms to protect themselves. This was deemed unacceptable by lawmakers and military personnel. An article in the Army and Navy Register of January 5, 1924 highlighted this point by referencing the most controversial firearms law of the era. “The Sullivan Law is heartily approved by every crook in the State who goes blithely forth to separate the lone traveler from his valuables or crawls, humming Merrily to himself, into my lay’s chamber to remove her jewels to a place of safe-keeping behind a ‘fence’” Representative Thetus Wilrette Sims, Democrat of Tennessee, argued that firearms laws should not disarm the law-abiding saying, “Under the Constitution you can not prevent a man arming in his

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41 Ibid.
42 This article was submitted for the consideration of the Senate Committee on the Judiciary by Senator Frances Emroy Warren, Republican of Wyoming. Congressional Record, Vol. 65, 7 Feb, 1924, 349.
own defense, but you can prevent him arming with particular instrumentalities of defense. He can still go around with a shotgun on his shoulder or in his hands, perhaps, although it is a misdemeanor in some places to do that; but it all bears on whether or not you want to break up the carrying of pistols by the law-violating class.”

Sims was one of the leading advocates of firearms laws in the House of Representatives, and supported and proposed multiple bills between 1912 and 1920. These two quotes highlight the dilemma faced by firearms legislators. They had to protect firearms ownership by the law-abiding, yet they were determined to isolate and disarm potential killers. Controlling the gun toter while allowing responsible citizens to possess arms for self-defense became the chief goal of firearms laws in the early twentieth century.

It is difficult to isolate any monolithic group which threw its weight behind firearms laws. The American Bar Association often appears as a proponent of such laws, but it had its fair share of members against pistol laws and, while it had previously supported such measures, in 1926 it would reverse its position and deem laws banning handguns a failure. Criminologists, judges, and police officers were also divided on the issue. There was no organization devoted solely to the promotion of firearms legislation, and even organizations of firearms owners had their fair share of conflicting opinion. The National Rifle Association was largely devoted to military interests like offering tips on the effective use of standard-issue military rifles. Though it did feature articles denouncing firearms bans and the idea of registering all firearms, the NRA

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43 Congressional Record, Vol. 56, 26 August 1918, 9547-9548.
45 Lamar T. Beman, Outlawing the Pistol
offered little commentary on firearms laws. Furthermore, one of the most comprehensive laws proposed in the early twentieth century, the Universal Firearms Act, was written by the United States Revolver Association, an organization of firearms owners and enthusiasts with ties to the NRA. The primary issue for the NRA and the ABA was not whether or not citizens should own firearms but rather that they should not be carried with impunity. Prominent among the many kinds of people supporting firearms laws were police chiefs trying to reduce murder rates or labor related violence and Southerners attempting to reign in their states’ reputations for violence and disarm African Americans.

Indeed, Southern Progressives would become the chief proponents of firearms legislation in the United States Congress. With the notable exception of the Mailing of Firearms Act, all of the firearms bills proposed between 1911 and 1927 were written by Southern Democrats. The chief rationale behind their bills was that homicide in America had to be reined in by reducing the carrying of firearms. The American South and West were still notorious for their violence, and the carrying of arms in those areas was deemed so common that it could be called a “habit.” Fundamental to the Progressive politics of the era was a sense that America had to be reformed and improved along rational lines. Firearms laws appealed to Southern Progressives because they held the promise of bringing the South’s notoriously violent tendencies under control.

The pistol was the chief subject of legislation. This was because pistols are typically small and inherently easier to conceal than other types of firearms. In the press,

47 *American Rifleman*, vol.69, 1921-22, Jan 1922, 15
49 Lane, *Murder in America*, 150-151; Redfield, *Homicide North and South*, 81.
in journal articles, in crime reports, and in dime novels, the pistol was the chief weapon of the criminal and the highwayman. In addition, while there existed a paucity of statistics on the implements used in crime, an investigatory committee of the American Bar Association declared in 1912 that handguns were used in the commission of over 90% of all crime. This common association of the pistol with crime would facilitate the passage of a series of laws aimed at regulating or even outlawing the trade in this specific type of firearm altogether.\textsuperscript{50}

The practice of “gun toting” was a social problem, stemming from the tendency of Americans to use force against one another. “Gun toting” became a hallmark of accounts of criminal violence and labor union violence, as well as racial, and immigrant violence throughout America.\textsuperscript{51} Whether the solution meant ending a “habit” ingrained in American culture, or stopping a practice endemic among immigrants and drunkards, firearms laws of the early twentieth century attempted to control the flow of arms in order to control the problem of rampant violence. How firearms would be distributed or controlled by the states would vary, and new firearms laws would be inspired by certain perceptions of crime and who was responsible for it.

Crime in the early twentieth century was influenced by the continuation of racial and ethnic conflict from the late nineteenth century and the challenges posed by a new wave of immigration from Southern and Eastern Europe. By far the most violent regions

of the nation were the South and the Southwest. While the national homicide rate in 1910 was approximately 8 per 100,000 adults per year, the homicide rate in South Carolina was closer to 50, with the most violent counties in northern Kentucky reaching rates as high as 800.\(^{52}\) Southern states averaged considerably higher murder rates than northern ones, both in cities and in the countryside. Historians have attributed these high murder rates to the South’s honor code, rampant poverty, and a southern social system which relied on violence and intimidation to keep African Americans at the bottom of the social hierarchy.\(^{53}\)

Perceptions of crime reflected both long-standing prejudices and actual shifts in homicide rates. The press often ascribed labor violence to foreign agitators and communists, while the continuing practice of lynching was justified as a means of maintaining white supremacy.\(^{54}\) Furthermore, throughout the nation, African Americans and immigrants were blamed for carrying firearms illegally, even as they attempted to defend themselves from white and nativist mobs. Randolph Roth argues that such marginalized peoples often internalized an extreme honor culture, resulting in a very high rate of homicide.\(^{55}\) While some commentators chose to explain this violence as the result of racial inferiority, Horace Redfield and experts in police work, like William McAdoo, stressed that white native-born Americans committed the majority of violent crimes. As a result, they argued that the practice of carrying arms more effectively explained the rates of violence in America among whites and nonwhites alike. In this way, “gun toting”


\(^{54}\) Lane, *Murder in America*, 153-155.

became one of the most recognized causes for high rates of murder in America, especially among immigrants, African Americans, and southerners.

Between 1911 and 1927, a wave of laws appeared at the state and federal levels through which legislators intended to regulate the sale and the ownership of firearms. However, until the Mailing of Firearms Act, the responsibility for regulating the sale of firearms lay with state governments. Though there were many state firearms laws, the federal government had only occasionally become involved with firearms legislation. This was in line with many other social controls pursued at the time. While drugs, alcohol, and pornography fell under state control and legislation during the Progressive Era, the federal government’s involvement in enforcing such restrictions grew only gradually and generally at the behest of the states.\(^{56}\) The tiny FBI of the early twentieth century was incapable of supplementing state action, and the Treasury Department itself would not grow substantially in power until after the Prohibition Amendment was passed in 1919.\(^ {57}\) In the case of firearms, the federal government would ultimately respond to state needs rather than asserting control on its own.

Nevertheless, there were precedents for the federal government to become involved in regulating firearms ownership. Aside from the Second Amendment itself, perhaps the first federal firearms legislation was a 1792 act which required all able-bodied male citizens to acquire firearms for militia service. Furthermore, during Reconstruction, the Federal government and the Supreme Court had prevented the disarming of newly freed African Americans by southern state governments. In this


\(^{57}\) Ibid., 323-324.
instance the federal government had prevented states from writing and enforcing firearms restrictions that would have targeted a specific social group. Though African Americans in the south would legally retain their firearms, the advent of Jim Crow laws would establish segregation and strip blacks of their right to vote.\textsuperscript{58} Ultimately, the states would take the initiative in controlling the sale of firearms. As they did so, the new state acts targeted the carrying of arms and the trade in weapons to counter the practice of “gun toting.”

The State Acts

At the state level, firearms laws varied extensively but followed certain patterns. There were three basic types of firearms laws enacted in states prior to 1927: bans or controls on carrying firearms, bans on the ownership of firearms by non-citizens, and controls on the sale and distribution of firearms. The first category included laws that banned or restricted only the carrying of concealed firearms and those that banned the carrying of all firearms. Between 1800 and 1920, 45 states and territories enacted at least one law banning the carrying of concealed weapons.\textsuperscript{59} Eight of these had enacted their

\textsuperscript{58} Halbrook, \textit{That Every Man Be Armed} (University of New Mexico Press: Albuquerque, 1984) pp. 162-164. In the Jim Crow South, it was not uncommon for African Americans to be forcibly disarmed by the white police and militia forces.

\textsuperscript{59} This is based upon a reading of the various State Law records located in the “Session Laws Library” of Heinonline, www.heinonline.org. First citations will include the full citation, hereafter repeated citations will be simplified to the state, year, and page number. \textit{Acts Passed at the Called Session of the General Assembly, of the State of Alabama; Begun and Held in the State Capital, at Tuscaloosa} (Hale and Phelan: Tuscaloosa, 1841) 146; \textit{Session Laws of the Seventeenth Legislative Assembly of the Territory of Arizona}, 1893, 3; \textit{Acts and Resolutions of the General Assembly of the State of Arkansas} (Mitchell and Bettis: Little Rock, 1881) 191; \textit{The Statutes of California Passed at the Fourteenth Session of the Legislature, 1863} (Benj. P. Avery: Sacramento, 1863) 748; \textit{General Laws of the State of Colorado} (Tribune Steam Printing House: Denver, 1877) 304; \textit{Public Acts Passed by the General Assembly of the State of Connecticut in the Year 1907} (The Case Lockwood and Brainard Company: Hartford, 1907) 689; \textit{The Acts and Resolutions of the General Assembly of the State of Florida, Passed at the Second Session} (Samuel S. Fibley, 1846) 20; \textit{Acts and Resolutions of the General Assembly of the State of Georgia} (The Public Printer: Atlanta, 1870) 421; \textit{Statute Laws of His Majesty Kamehameha III, King of the Hawaiian Islands} (Charles E. Hitchcock, Honolulu,
first “concealed carry” ban before the Civil War, and two of them, Colorado and California, enacted concealed carry laws during the Civil War. The remaining 35 states

1846] 19; General Laws of the Territory of Idaho, Passed at the Fifteenth Session of the Territorial Legislature (James A. Pinney, 1889) 23; Private Laws of the State of Illinois, Passed by the Twenty-Sixth General Assembly, Vol. I, (Illinois Journal: Springfield, 1869) 805; The Revised Statutes of the State of Indiana, Adopted and Enacted by the General Assembly at Their Twenty-Second Session (Douglas and Noel, Indianapolis, 1838) 217; Acts and Joint Resolutions Passed at the Regular Session of the Thirty-Fifth General Assembly of the State of Iowa (Robert Henderson: Des Moines, 1913) 307; State of Kansas Session Laws 1903 (W. Y. Morgan, Topeka, 1903) 371; Acts Passed at the First Session of the Twenty-First General Assembly for the Commonwealth of Kentucky (Gerard and Berry, 1813) 100; Acts Passed at the Second Session of the First Legislature of the State of Louisiana (1812) 172; Laws of the State of Maryland (King Brothers: Annapolis, 1894) 834; Acts and Resolves Passed by the General Court of Massachusetts in the Year 1906 (Wright and Potter Printing Co.: Boston, 1906) 150; Local Acts of the Legislature of the State of Michigan Passed at the Regular Session of 1891 (Robert Smith and Co.: Lansing, 1891) 409; Special Laws of the State of Minnesota, Passed During the Twenty-Sixth Session of the State Legislature (Harrison and Smith: Minneapolis, 1889) 14; Laws of the State of Mississippi Passed at a Regular Session of the Mississippi Legislature Held in the City of Jackson (Power and Barksdale: Jackson, 1878) 175; Laws of Missouri General and Local Laws Passed at the Regular Session of the Twenty-Eighth General Assembly (Regan and Carter: Jefferson City, 1875) 50; Laws, Resolutions, and Memorials of the Territory of Montana, Passed at the Thirteenth Regular Session (Geo. E. Boos: Helena, 1883) 63; The General Statutes of the State of Nebraska (Journal Company: Lincoln, 1873) 724; Statutes of the State of Nevada, Passed at the Third Session of the Legislature (Joseph E. Eckley: Carson City, 1867) 66; Laws of the State of New Hampshire Passed January Session 1909 (Concord, 1909) 451; Acts of the One Hundred and Twenty-Ninth Legislature of the State of New Jersey (News Printing Company: Paterson, 1905) 324; Laws of the Territory of New Mexico, Passed by the Legislative Assembly, Session of 1868-1869 (Maderfield and Tucker: Santa Fe, 1869) 72; Laws of the State of New York Passed at the One Hundred and Fourteenth Session of the Legislature (Banks and Brothers: Albany, 1891) 176; Laws and Resolutions of the State of North Carolina, Passed by the General Assembly at its Session of 1879 (The Observer: Raleigh, 1879) 231; Laws Passed at the Fourteenth Session of the Legislative Assembly of the State of North Dakota (Walker Bros.: Pargo, 1915) 96; The State of Ohio. General and Local Laws and Joint Resolutions, Passed by the Sixty-Second General Assembly (Nevins and Meyers: Columbus, 1877) 257; The Statutes of Oklahoma 1890 (The State Capital Printing Co.: Guthrie, 1890) 495; Statutes of Oregon. Enacted, and Continued in Force, by the Legislative Assembly at the Fifth and Sixth Regular Sessions Thereof (Ashael Bush, 1855) 243; Laws of the General Assembly of the State of Pennsylvania (B. F. Meyers: Harrisburg, 1875) 33; Acts and Resolves Passed by the General Assembly of the State of Rhode Island and Providence Plantations (E. L. Freeman and Son: Providence, 1893) 231; Acts Joint Resolutions of the General Assembly of the State of South Carolina (Charles A. Calvo, Jr.: Columbia, 1897) 423; South Dakota Constitution and the Laws Passed at the Special Session of 1916 (Hipple Printing: Pierre, 1916) 209; Acts of the State of Tennessee, Passed by the Second Session of the Thirty-Sixth General Assembly (Jones, Purvis & Co.: Nashville, 1870) 28; General Laws of the Twelfth Legislature of the State of Texas (J. G. Tracy: Austin, 1871) 25; Acts of the General Assembly of Virginia (Samuel Shepherd: Richmond, 1848) 110; Laws of Washington Territory, Enacted by the Legislative Assembly, Tenth Biennial Session (Thomas H. Cavanaugh: Olympia, 1886) 82; Acts of the Legislature of West Virginia, at its Adjourned Session (W. J. Johnson: Wheeling, 1882) 421; The Laws of Wisconsin, Together with the Joint Resolutions and Memorials Passed at the Twenty-Seventh Annual Session of the Wisconsin Legislature (Atwood & Culver: Madison, 1874) 334; Session Laws of Wyoming Territory Passed by the Eleventh Legislative Assembly (E. A. Slack: Cheyenne, 1890) 140.

60 The remaining eight were Hawaii, 1845, 19; Indiana, 1838, 217; Alabama, 1841, 146; Florida, 1846, 20; Acts of the General Assembly of the State of Georgia (Samuel J. Ray: Macon, 1852) 269; Kentucky, 1812, 100; Louisiana, 1812, 172; and Virginia, 1847, 110.
and territories enacted their first concealed carry laws after the end of the Civil War.\textsuperscript{61} Between 1865 and 1870, 8 of these enacted their first concealed carry law.\textsuperscript{62} Between 1870 and 1880, 6 enacted their first laws, from 1880 to 1890, 9 enacted their first.\textsuperscript{63} The remaining 12 states would enact their first concealed carry legislation between 1880 and 1920. Of the seven states and territories that enacted concealed carry bans before the Civil War, five were southern states, and of the four territories and states that never enacted concealed carry ban, three were northern states, and one was western.\textsuperscript{64}

\textsuperscript{61} Arizona 1893, 3; Arkansas 1881, 191; California 1863, 748; Colorado, 1876, 304; Connecticut, 1907, 689; Idaho, 1888, 23; Illinois, 1869 Vol. I, 805; Iowa, 1913, 307; Kansas, 1903, 371; Maryland, 1894, 834; Massachusetts, 1906, 150; Michigan, 1891, 409; Minnesota, 1889, 14; Mississippi, 1878, 175; Missouri, 1875, 50; Montana, 1883, 63; Nebraska, 1873, 724; Nevada, 1867, 66; New Hampshire, 1909, 451; New Jersey, 1905, 324; New Mexico, 1868, 72; New York, 1891, 176; North Carolina, 1879, 231; North Dakota, 1915, 96; Ohio, 1877 Vol. 74, 257; Oklahoma, 1890, 495; Oregon, 1855, 243; Pennsylvania, 1875, 33; Rhode Island, 1893, 231; South Carolina, 1897, 423; South Dakota, 1916, 209; Tennessee, 1869-1870, 28; Texas, 1871, 25; Washington, 1885-1886, 82; West Virginia, 1882, 421; Wisconsin, 1874, 334; Wyoming, 1890, 140.

\textsuperscript{62} California 1863, 748; Georgia, 1870, 421; Illinois, 1869 Vol. I, 805; Nevada, 1867, 66; New Mexico, 1868, 72; Tennessee, 1869-1870, 28; The Revised Statutes of Colorado as Passed at the Seventh Session of the Legislative Assembly (David C. Collier: Central City, 1868) 229; Laws of the State of Missouri Passed at the Adjourned Session of the Twenty-Fifth General Assembly (Horace Wilcox: Jefferson City, 1870) 357.

\textsuperscript{63} Arkansas 1881, 191; Idaho, 1888, 23; Minnesota, 1889, 14; Montana, 1883, 63; Oklahoma, 1890, 495; Washington, 1885-1886, 82; West Virginia, 1882, 421; Wyoming, 1890, 140; Colorado, 1876, 304; Mississippi, 1878, 175; Nebraska, 1873, 724; North Carolina, 1879, 231; Ohio, 1877 Vol. 74, 257; Pennsylvania, 1875, 33.

\textsuperscript{64} The northern states were Vermont, Maine, and Delaware, while the western state was Utah.
Figure 1.3

Most initial state concealed carry bans were written after the end of the civil war. Furthermore, after 1880, a new wave of firearms laws appeared as individual states modified and added to previous bans. Between 1880 and 1927, approximately 197 laws were enacted that dealt in some way with firearms, ranging from outlawing the carrying of concealed weapons to outlawing the sale of blank firing guns to minors. Of these laws, 124 were enacted after 1900. These comprise only those laws affecting the entire state. It does not include laws enacted in individual municipalities.

Ultimately, the language of these state acts distinguished between potentially dangerous “gun toters,” and responsible “armed citizens.” The different approaches to the carrying of firearms reveals the range of behaviors considered threatening, as well as what rights legislators meant to protect. Despite the outlawing of carrying concealed

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65 These results were compiled by looking at the state law records available on Heinonline and do not include the statutes enacted at the county or municipality level.
arms, citizens were still expected to be able to carry arms for their personal defense. Just when a citizen had cause to carry a firearm could vary, but in the states of Mississippi, Arkansas, California, Nevada, and Alabama, it was legal for people embarking on a journey to carry concealed arms for their protection. Additionally, the states of Alabama, Maryland, and Oregon each enacted laws that affirmed a citizen’s right to carry firearms if his life were threatened. These laws required citizens to exercise judgment and to be able to defend their behavior in court. The “armed citizens” described by the law were expected to carry only when their lives were at risk, unlike the indiscriminate “gun toter.” The citizen’s right to possess arms for defense was upheld by state acts. Indeed, in 1868 the state of Oregon enacted a law guaranteeing the right of male citizens to own several types of firearms including pistols, and in 1923, Florida enacted a law declaring that police could not confiscate a firearm without a warrant. Furthermore, seventeen states enacted provisions that allowed a citizen to carry a concealed weapon as long as he obtained a proper permit. In this way, legislators attempted to create a vetting process that would ensure that only responsible citizens could carry arms.

66 Mississippi, 1878, 175; Arkansas, 1881, 191; California, 1863, 748; Nevada, 1867, 66; Acts Passed at the Called Session of the General Assembly, of the State of Alabama; Begun and Held in the State Capital, at Tuscaloosa (Hale and Phelan: Tuscaloosa, 1841) 149.
67 Alabama, 1841, 149; Maryland, 1894, 834; Oregon, 1855, 243.
At the same time, a new generation of firearms laws established controls over firearms dealers. Between 1910 and 1927, sixteen states enacted laws intended to regulate the sale of firearms using one of two strategies: first, they required records to be kept of the sales of firearms, and second, they attempted to establish permit requirements for firearm purchases. Between 1907 and 1927, Colorado, Connecticut, Hawaii, Massachusetts, Michigan, New Hampshire, Missouri, New Jersey, Oregon, Virginia, and West Virginia all required that firearms dealers keep a record of the identifying marks of the handguns they sold as well as the names and addresses of the buyers.70 During the same period, Connecticut, Delaware, Georgia, Hawaii, Massachusetts, and West Virginia each established laws intended to regulate firearms dealers.71 The majority of these states

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71 Public Acts Passed by the General Assembly of the State of Connecticut in the Year 1915 (Published by the State: Hartford, 1915) 1922; Laws of the State of Delaware Passed at a Session of the General Assembly Commenced and Held at Dover (The Star Printing Co.: Wilmington, 1911) 28; Acts and Resolutions of the General Assembly of the State of Georgia 1907 (The Franklin-Turner Company: Atlanta, 1907) 30; Laws of the Territory of Hawaii Passed by the Eleventh Legislature Special Session 1920
created licenses that would-be gun merchants had to apply and pay for, allowing authorities to weed out suspicious or undesirable dealers. Georgia’s 1907 act was by far the most narrowly targeted. Instead of creating a true license, the Georgia act forced pawnbrokers that dealt in handguns to pay a tax.\footnote{Acts and Resolutions of the General Assembly of the State of Georgia 1907 (The Franklin-Turner Company: Atlanta, 1907) 30.} Indeed, pawnbrokers were considered one of the chief sources of firearms in criminal hands.\footnote{This concern about cheap dealers and pawnbrokers inspired an attempt to regulate them in from the Federal level in 1921. \textit{Congressional Record}, Senate, 61 Cong. Rec. 2 Nov. 1921, 7160.}

By establishing permit requirements for firearms dealers, these laws attempted to delegitimize the sale of firearms by pawnbrokers or “shady” dealers in impoverished neighborhoods. Furthermore, by requiring sellers to keep records of their buyers, these acts were intended to aid police in tracking down the weapons used in crimes.\footnote{Congressional Record, Senate, 61 Cong. Rec. 2 Nov. 1921, 7160.} Part of the rationale for such laws was the difficulty in establishing the ownership of a firearm if it was discarded.\footnote{Beman, Outlawing the Pistol.} The two strategies reflected the effort to keep arms out of dangerous hands while simultaneously providing a means of monitoring firearms sales to non-criminals. However, the buying and selling of arms proved difficult to police, and, according to the Tennessee legislature, three fifths of all homicides were committed with handguns bought by mail order from out of state.\footnote{Public Acts of the State of Tennessee Passed by the Fifty-Ninth General Assembly (McCowat-Mercer: Jackson, 1915) 578.}

One key aspect of firearm controls of the late progressive era was the attempt to keep weapons out of the hands of “dangerous classes,” or those groups believed to pose a threat because of their supposed involvement in crime, labor violence, or because of their
race. The precedents for such laws had been set before the Civil War, as state legislatures attempted to achieve total control over African Americans. Early state firearms laws included provisions that forbade free and enslaved blacks from owning or carrying firearms. These laws appeared as early as the colonial period in Massachusetts, and as late as the 1850s in Arkansas. In the states of Arkansas, Delaware, Georgia, Louisiana, Maryland, New Mexico, North Carolina, South Carolina, Tennessee, and Virginia, it was illegal for slaves or free blacks to possess or carry firearms. By enacting such laws, these states attempted to both prevent slave revolts and keep the entire black populace subservient to whites. These acts provided a precedent for subsequent firearms laws written for expressly racial and xenophobic purposes.

In the late nineteenth century, the United States was in the midst of rewriting its immigration laws in order to exclude non-whites. In 1882, the United States Congress passed laws nearly forbidding Chinese immigration, and the large numbers of immigrants from southern and eastern Europe in the late nineteenth-century were stigmatized as the sources of labor and criminal violence as well as the racial degradation of America. In reaction to this, various states enacted laws that attempted to keep firearms out of the

77 Acts Passed at the Tenth Session of the General Assembly of the State of Arkansas (Johnson and Yerkes: Little Rock, 1855) 136; Laws of the State of Delaware Passed at a Session of the General Assembly Commenced and Held at Dover (James S. M'Calla: George Town, 1832) 180; Acts of the General Assembly of the State of Georgia, Passed in Milledgeville at an Annual Session November and December 1860 (Boughton, Nisbet & Barnes, 1861) 56; Laws for the Government of the District of Louisiana Passed by the Governor and Judges of the Indiana Territory (Stout: Vincennes, 1804) 108, this act was passed while Louisiana was under the jurisdiction of the Indiana Territory; The Laws of Maryland (1692-1720) 118, the first book of Session Laws for Maryland is incomplete; Laws of the Territory of New Mexico Passed by the Legislative Assembly Session of 1858-1859 (A. De Marle: Santa Fe, 1859) 68; Laws of the State of North Carolina Passed by the General Assembly at the Session of 1840-41 (W. R. Gales: Raleigh, 1841) 61; The Statutes at Large of South Carolina: Published Under the Authority of the Legislature (A. H. Pemberton: Columbia, 1840) 60; Public Acts Passed at the First Session of the Twenty-First General Assembly of the State of Tennessee 1835-1836 (J. Nye and Co.: Nashville, 1836) 168; Virginia Laws 1720-1740, 342.

hands of immigrants. In 1881, Illinois declared it illegal to sell or provide weapons to “aliens.” This act was followed by a law in Montana, which outlawed the sale of pistols to “aliens” or non-citizens in 1913. Montana was followed by Colorado and Wyoming in 1919, Michigan in 1921, Massachusetts in 1922, California, New Hampshire, and North Dakota in 1923, and Indiana, Oregon, West Virginia, and Nevada in 1925.

During the 1910s, firearms laws mainly attempted to prevent the carrying of arms. The thrust of firearms laws changed after the passage of the Volstead Act in 1919. With the onset of national prohibition, the sale, and distribution of alcohol had become highly restricted. In order for prohibition to be effective, the United States Mail had to take part in monitoring the shipment of alcohol through its own services. The Volstead Act paved the way for further attempts at the regulation of interstate trade, including firearms. After this act, new laws targeting the buying and selling of firearms to immigrants appeared. Many of these laws targeted specific groups of people to prevent their using, carrying, or

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80 Laws, Resolutions and Memorials of the State of Montana Passed by the Thirteenth Regular Session of the Legislative Assembly (Independent Publishing Co.: Helena, 1913) 53.
even possessing firearms. States like Pennsylvania, California, Colorado, Massachusetts, Michigan, Nevada, New Hampshire, and Oregon all had laws forbidding unnaturalized immigrants from owning firearms and hunting.\textsuperscript{82} Two rationales were offered for these bans: one, that foreigners could not be trusted to hunt responsibly and would damage American wildlife, and second, that immigrants were prone to commit crimes.\textsuperscript{83}

In Pennsylvania, laws restricting immigrant hunting practices owed their existence to the conflict between immigrant hunters, local citizens, and the conservation movement.\textsuperscript{84} Pennsylvania’s Immigrant Firearms Act of 1909 rendered it illegal for “unnaturalized foreign born persons” to own firearms. The state legislature enacted this bill in response to pressure from landowners and conservationists. In Lawrence County, a vast population of Italian immigrants arrived to work in the mines. They supplemented their diets by hunting. For the immigrants, it was a way of saving money and acquiring additional protein in their diets. However, the owners of the farms and woodlands detested Italian hunters as both foreign and harmful to their property. The immigrants were likened to an invading army, and the landowners demanded relief. It was in


\textsuperscript{83} Heinonline, “Session Laws Library,” www.heinonline.org, Pennsylvania and Colorado are examples, see also American Rifleman. v.69 1921-22 Jan 1922 p. 15.

response to violators of hunting statutes that Pennsylvania created its first State Police. The state hired game protection agents to fine illegal hunters and, in Lawrence County, they targeted the Italian immigrants.85 This was no accident, and conservationists sought to prevent Italian immigrants from hunting songbirds. William Temple Hornaday, a zoologist and well known conservationist writer, argued that the hunting of birds was a practice endemic to Italy and that Italian Americans needed to abandon the hunting of songbirds in order to become good citizens. Yet Hornady argued that reeducation would make Italians into responsible citizens. As he put it, “What is the best remedy for the troubles that will arise for Italians in America because of wrong principles established in Italy? It is not the law, the police, the court, and the punishment. It is in educating the Italian into a knowledge of the duties of the good citizen!”86 American wildlife was transformed from a local to a state and national resource, and restrictions were placed upon the time of year when hunting could be done, along with the number and kinds of animals that could be hunted. Conservationists frowned on the killing of songbirds by Italian immigrants.87 In this way, immigrant hunting practices served as the bugbear for conservationists attempting to protect and regulate natural resources.

The second reason for denying unnaturalized immigrants the right to own firearms was the assumption that they were the source of much criminal activity in America. The fear that crime was endemic to immigrant populations only strengthened the call for the regulation of firearms ownership among immigrants. In 1906, a Deputy Game Protector in Lawrence County named Seeley Houk was murdered. Houk was

85 Ibid., 21
87 Ibid., 21. Further legislation would also target the hunting practices of Pueblo Indians.
disliked by the Italian immigrants because he slapped their hunters with fines that the poor miners were often unable to pay. The subsequent murder investigation focused on organized criminal activity, reflecting the assumption that all extralegal activity among Italians was controlled by the Black Hand.88 Though the Immigration Commission concluded that crime in America was largely committed by native-born residents, respected figures like sociologist Henry Platt Fairchild continued to attribute certain crimes or types of crimes to specific groups. For example, Fairchild pointed out that Italian immigrants committed more murders per capita than other major groups.89 The press tended to agree, and immigrants bore a great deal of the blame for crime in general, and murder in particular.

In the southern United States, whites often blamed African Americans for criminal activity.90 Jim Crow laws and the South’s hierarchical society labelled the African American community a permanent criminal class. As such, discriminatory laws in the South were meant to prevent the racial group associated with crime from using firearms.91 In a way, firearms laws in the North often worked along similar lines as the targets for firearms legislation were usually immigrants and aliens. The guiding assumption of such laws was that crime was the fault of the immigrant, the black, the Asian. However, these state acts were not uniform, nor did they provide the sole rationale behind the first federal legislation. Instead, the first federal act would be inspired by the

88 Ibid., 21.
89 Ibid, 332
demand to beef up state regulations controlling handgun ownership and the carrying of concealed weapons.

Until 1927, there were no federal firearms laws, and the states dominated the enactment of firearms legislation. When federal bills emerged, advocates like William McAdoo and John Franklin Miller feared that such legislation could not pass. While firearms laws were enacted in the states, advocates of federal laws claimed that it would be nearly impossible to get a firearms bill through Congress. Gun-control supporters feared that any such proposals would face stiff opposition from firearms manufacturers. Senator John Knight Shields of Kentucky claimed that vast interests were arrayed against Federal legislation, and after the initial failure of the Mailing of Firearms Act in the Senate, District Attorney Banton of New York claimed that “A lobbying organization maintained by the pistol manufacturers of four states makes it impossible to enact national legislation regulating the sale of firearms in interstate trade.”

In order to avoid the influence of the firearms lobby in congress, uniform firearms laws, which were expected to benefit all the states, emerged at the state rather than Federal level. The American Bar Association in 1922 released a statement officially endorsing laws which would ban the sale and manufacture of handguns, but Charles V. Imlay, the chairman of the Committee on the Uniform Firearms Act, declared that such laws would have to emerge on a state by state basis. Imlay defended this strategy by claiming that a gun lobby prevented action in congress itself. The Uniform Firearms

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92 *Congressional Record*, 61, 24 June 1921, 3020, Beman, *Outlawing the Pistol*, p. 49.
Act, which Imlay advocated, was written by the United States Revolver Association as a model to be enacted by state legislatures.\textsuperscript{94}

The absence of a federal role stemmed from the fact that states were not seeking federal involvement. In 1886, the Supreme Court had ruled in the Presser v. Illinois decision that the Second Amendment prevented the advent of federal restrictions but not those of the states.\textsuperscript{95} Despite this precedent, the Presser decision was not mentioned in any of the debates over federal firearms legislation in the early twentieth-century. Furthermore, legal experts were divided on whether or not the Second Amendment guaranteed an individual or a communal right to keep and bear arms.\textsuperscript{96} Individual state constitutions each had their own versions of the second amendment, and while the constitutions of the states of Alabama, Arizona, and Connecticut specifically declared that individual citizens had a right to possess arms to defend themselves and the state, Arkansas, Georgia, and Massachusetts referred only to bearing arms for common defense.\textsuperscript{97} The Second Amendment would become a sticking point by the 1960s, but the main reason for the federal government’s lack of input before then was the fact, demonstrated in the Presser case, that the states wrote and enforced their own laws. There was no need for firearms laws at the federal level as long as states were able to enforce the laws they created, but this would change.

The earliest legislation which sought to ban handguns outright was New York’s “Sullivan Law” of 1911. While New York State’s previous pistol regulations had

\textsuperscript{95} Halbrook, That Every Man Be Armed, pp. 162-164.
prohibited the carrying of handguns outside of the home, the Sullivan Law banned their ownership entirely except by those who possessed a license to do so. Just who should be able to acquire licenses would become a sticking point. An applicant for a license had to apply to a local magistrate, who would decide whether or not one’s case for carrying a pistol was justified. For better or worse, this law became a model for those interested in promoting stronger pistol laws throughout the United States. However, banning the ownership of this weapon posed a challenge for New York. How could a single state prevent its citizens from acquiring handguns when they were perfectly legal in the rest of the country? The answer to this question came from experience.

The New York Law

The Sullivan Law of 1911 is named for state senator Timothy D. Sullivan who represented the Bowery district in New York. Sullivan was famous for his populist political style and his high position within Tammany Hall. It was Sullivan who presented the bill to the State Senate and defended it on the floor. The bill’s chief author, however, was George Petit LeBrun, a clerk in the Coroner’s office. In his memoir, Lebrun claimed that he wrote the law and presented it to Sullivan after the novelist and journalist David Graham Phillips was gunned down outside the Princeton Club in Gramercy Park. While Lebrun and Phillips were not well acquainted, this murder committed by a disgruntled actor drove him to write a law designed to prevent similar

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crimes. Lebrun wrote the draft of a bill and presented it to State Senator Sullivan.\textsuperscript{101} Sullivan had promised New Yorkers in his 1910 reelection speeches that he would fight for new legislation against carrying concealed firearms, declaring, “I say to the ‘gun toter’ and the tough man that I don’t want his vote, because I’m goin to try to put him in jail.” \textsuperscript{102} Senator Sullivan enthusiastically embraced Lebrun’s bill.\textsuperscript{103}

Though Sullivan proved a valuable asset, Lebrun was able to rally a significant body of supporters who were bolstered by a series of high profile killings. Lebrun formed the Legislation League for the Conservation of Human Life which counted among its members such notables as John D. Rockefeller Jr., John Wanamaker, Nathan Straus, Hudson Maxim, Jacob Schiff, and Episcopal Bishop David H. Grier.\textsuperscript{104} Furthermore, many newspapers supported the bill, including \textit{The Sun} and \textit{The New York Times}.

Though there was some opposition in the press on the grounds that the bill would disarm law-abiding citizens, the bill rapidly passed through the state legislature and went into effect in September 1911. Indeed, the Sullivan Act made good time going from bill to law, most likely because of a series of high profile crimes the previous year. Like today, firearms laws were often proposed and passed during the early twentieth century in reaction to specific crimes. The previous year, 1910, had been remarkably bloody for New York City. Mayor William Jay Gaynor had been shot through the neck and nearly

\begin{footnotes}
\textsuperscript{104} Lebrun would later use the Legislation League to promote such public safety policies as the replacement of street cars with buses so that passengers would be let off on the curb and not in the middle of the street. As seen in “Plan to Make Life Safe in New York,” \textit{The Sun}, 11 May 1913, pp. 4.
\end{footnotes}
died while boarding a steamer bound for Europe, and a series of violent gang wars rocked New York’s immigrant neighborhoods.\textsuperscript{105}

These incidents helped provide pressure to pass the Sullivan Law, and when the law was debated on the floor of the state legislature, there was little opposition. A full report of the debate does not survive, but according to the \textit{New York Times}, only five state senators opposed the bill. Timothy Sullivan denounced the opponents of his bill as the toadies of firearms manufacturers, declaring that only they could possibly oppose his bill. He added, “I believe this bill will save more souls than all the preachers in the city talking for the next ten years.” He proudly declared that his bill had been endorsed by the Legislation League for the Conservation of Human Life, referring to John D. Rockefeller, Jr. as a “personal acquaintance.”\textsuperscript{106}

Though Sullivan could count plenty of supporters for his bill, there were some voices raised in opposition. The chief concern, as argued by State Senator Ferris in the state legislature, was that the bill could not possibly prevent criminals from carrying or obtaining handguns.\textsuperscript{107} In addition, the bill faced criticism for preventing citizens from keeping pistols in their homes for the purpose of self-defense.\textsuperscript{108} This would be a recurring criticism of future firearms laws, but in 1911, the explanation offered by supporters of the Sullivan Law like George P. Lebrun was that if all pistols were removed from the city, then nobody would need a handgun to defend themselves.

Ultimately, the Sullivan Law typified the increasing severity of concealed carry laws, yet it differed from the measures adopted in other states because it banned the

\textsuperscript{105} Kennett and Anderson, \textit{The Gun in America: The Origins of a National Dilemma}, pp. 199.
ownership of handguns without a permit. By declaring the carrying of concealed arms a felony where it had previously been a misdemeanor, the punishment increased in severity. In the state of Colorado, the punishments for carrying concealed firearms were increased twice, in 1867 and 1876. A similar trajectory was seen in the states of Nebraska and Virginia. Just like the earlier state acts, Sullivan and Lebrun hoped that harsh sentences would serve as a deterrent. In addition, it was made a misdemeanor to have an unlicensed pistol in one’s home. This effectively outlawed the private ownership of pistols without a permit. Even here, the permits were offered on a “may issue” basis, meaning that an application could be rejected at the discretion of the issuing magistrate. Additionally, the law created new regulations for firearms dealers in New York.

A firearms dealer had to have a license to sell handguns, which could of course be revoked if abused. In addition, the dealer could sell a handgun only to the holder of a valid permit to carry the weapon concealed. In effect, the permit to carry was also a permit to own. In addition, the dealer had to keep a record of all the identifying marks of each weapon so that it could by identified by the police if it was recovered after a crime. Finally, firearms dealers had to keep records of the names and addresses of everyone who

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purchased a handgun from them. This information had to be supplied to the police if requested.\textsuperscript{112}

Still, after the law passed, the question still remained, would it reduce New York’s murder rate? Almost immediately after it went into effect, New York City’s police began making arrests under the new law.\textsuperscript{113} To its supporters, the prospects seemed good. The police now had some new grounds for arresting criminals, and they began to put them to use. But some proof of whether or not the law was working would be furnished by the Coroner’s report of the total number of homicides in New York City for the year 1912, the first full year under the Sullivan law. When the report was published in 1913, the results were not encouraging. While there had been 106 murders in 1910, there were 108 in the year 1912. The total number of murders had not declined significantly, and such well-known figures as City Magistrate Corrigan and Justice Goff declared the law a failure on those grounds. Furthermore, they suggested that the act had done more harm than good by disarming law-abiding citizens.\textsuperscript{114} However, this did not end the debate over firearms laws. George Petit Lebrun and New York City’s Magistrate William McAdoo,\textsuperscript{115} among others, argued that the law was sound but that it had not had the desired effect because New York City’s criminals were able to get their firearms by traveling across the river into Jersey City, where no permit or proof of residence was required to purchase a handgun.\textsuperscript{116} Pointing to the readily available arms market in New

\textsuperscript{112} Lebrun, \textit{It’s Time to Tell}, pp. 107-108.


\textsuperscript{115} This is not the William Gibbs McAdoo who would serve as Secretary of the Treasury. William McAdoo and William Gibbs McAdoo were acquainted and even had a law practice together, but William Gibbs McAdoo did not promote firearms laws, while William McAdoo did.

McAdoo and Lebrun argued that because New York State could not control the firearms marketing practices in other states, it could not effectively enforce its own ban. McAdoo implored the Mayor of Jersey City and the Governor of New Jersey to adopt the Sullivan Law, arguing that only by doing so could pistols be kept out of the hands of criminals.\textsuperscript{117}

New York was not the only state that could not control the flow of firearms across its boarders. States like Kentucky and Tennessee had laws banning small concealable pistols but these could be purchased by simply walking across the state line into Ohio or Mississippi and purchasing weapons outside of the state, or by ordering them through the mail. This last option was universal across all the states. It was perfectly legal for anyone to transport a firearm through the United States Post Office and private couriers.\textsuperscript{118}

Furthermore, catalogs like Sears Roebuck did not limit their offerings based upon what was legal in individual states like New York or Kentucky.\textsuperscript{119} Anyone with enough cash and an order form could buy a pistol with ease. One of the critiques of the Sullivan Law was that its attempt to disarm criminals was futile because they could always find ways of acquiring weapons regardless of the law.\textsuperscript{120}

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\item \textsuperscript{117} “McAdoo Advocates National Gun Law,” \textit{The New York Times}, 12 April 1914, pp. 9. In 1912, New Jersey did adopt a law requiring records to be kept of the sale of firearms in that state.
\item \textsuperscript{118} Though Idaho and Utah both forbade the mailing of \textit{loaded} firearms.
\item \textsuperscript{120} “Tried for a Year: Is the Sullivan Law a Failure?” \textit{The Sun}, 25 August 1912, pp. 11.
\end{itemize}
subject of congressional attention, but firearms laws in general remained the responsibility of the states.

**The First Federal Attempts**

In April of 1912, the House of Representatives debated a firearms bill proposed by Thetus Wilrette Sims, a Democrat of Tennessee. A heavy set man with a broad mustache and balding head, Sims also proposed numerous laws targeting gambling and the sale of alcohol. His latest bill declared that the carrying of any concealed weapons, including pistols, knives and blackjacks, would be punished as a felony in Washington D.C., with convicted parties sentenced to at least one year in the penitentiary. This was a modified version of Sims’s original proposal which declared the carrying of pistols openly or concealed a felony. Intriguingly, the modification of the bill resulted from the Committee on the District of Columbia’s interpretation of the Second Amendment. Representative Ben Johnson, Democrat of Kentucky, and chairman of this committee, which was responsible for reviewing the bill, declared that openly carrying firearms was guaranteed by the Second Amendment to the Constitution and that any law which restricted this would therefore be unconstitutional. Johnson’s interpretation of the Second Amendment was quite common and fully in line with the types of firearms legislation that existed in multiple states. It was perfectly acceptable for citizens to carry firearms openly especially on their own property and for self-defense. It was in towns and urban areas that bans on the carrying of firearms first emerged, and as of 1912, it was legal to carry a handgun openly in 36 of the states and territories.¹²¹ To Johnson, in particular, it

¹²¹ A search of the Session Law Records on Heinonline for all fifty states and territories reveals that 36 of the 50 allowed openly carrying firearms without a license.
was the clandestine gun toter who carried his arms hidden away that posed the greatest
danger.\textsuperscript{122} In its modified form, Johnson and the committee considered the Sims bill to be
an important model for the states to follow.\textsuperscript{123}

Sims and Johnson’s home states of Tennessee and Kentucky had already adopted
laws banning the carrying of concealed firearms. The difference between the Sims bill
and the bills adopted in the various states was the severity of its punishment, not the
practice that it outlawed. The Sims bill touched upon one of the most divisive questions
facing proponents of carrying laws. Career criminals and otherwise law-abiding citizens
continued in many cases to carry concealed firearms with and without permits. In order to
strengthen these laws, states had adopted measures increasing the penalty for violating
the law. New York was typical. Before the Sullivan law, it was a misdemeanor to carry a
concealed firearm; after the law was enacted, it became a felony with harsher
punishments. Many lawmakers assumed that increasing the severity of punishment could
serve as a deterrent against the practice, and the states of New York, Colorado, and Texas
each increased the penalties of existing statutes in the hope it would enhance the
effectiveness of firearms laws.\textsuperscript{124}

While Johnson considered openly carrying firearms acceptable, he was absolutely
opposed to carrying concealed weapons and supported strong punishments for the
offense. Speaking as a representative of Kentucky, Johnson said, “Those who have grown

\textsuperscript{122} Congressional Record, Vol. 48, 11 April 1912, pp. 4593.
\textsuperscript{123} Congressional Record, Vol. 48, 11 April 1912, pp. 4593.
\textsuperscript{124} Heinonline, “Session Laws Library,” Laws of the State of New York Passed at the One Hundred and
Thirty-Fourth Session of the Legislature, Vol. 1 (J.B. Lyon Company: Albany, 1911) 442; Heinonline,
“Session Laws Library,” General Laws, and Joint Resolutions, Memorials and Private Acts, Passed at the
Second Session of the Legislative Assembly of the Territory of Colorado (Rocky Mountain News Printing
at the Regular Session of the Twenty-Ninth Legislature Convened at the City of Austin, January 10, 1905,
and Adjourned April 15, 1905 (State Printing Company: Austin, 1905) 56.
up in sections of the country where the carrying of concealed deadly weapons is engaged are those who most earnestly strive to strike it down.” Here he gave voice to a movement among Southerners to reduce the violence that had become so endemic to their region. For his part, Sims offered his full support for the altered version of the bill. He pointed to the murder of President William McKinley just over a decade before, arguing that concealed carrying had resulted in the President’s death at the hands of Leon Czolgosz. Furthermore, he claimed that Tennessee had succeeded in ending the practice of carrying bowie knives with a law not unlike this bill. Therefore, he considered the prospects for his new bill to be quite good. Still, Sims was aware that his own home state had a problem with violent crime. In October 1912, Frederick L. Hoffman, an insurance statistician, published the first of a series of statistical analyses of murder rates in the United States. Of the thirty cities covered by his study, it was Memphis, in Sims’s own home state that had the highest murder rate per 100,000 people of 63.4 in 1911 compared with 9.1 in Chicago and 3.6 in Brooklyn.

Johnson’s interpretation of the Second Amendment as a guarantee of the right of citizens to carry arms openly was by no means universal, but it was this interpretation which had led to the committee’s decision to change the text of the Sims bill. This provides an intriguing window into the many ways that the Second Amendment has been interpreted over the years. In the early twentieth century, American citizens could carry firearms without permits, especially if they were embarking on a journey, or had good

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125 Congressional Record, Vol. 48, 11 April 1912, pp. 4593.
reason to believe their lives were at risk. However, if the weapons were concealed, then the carriers were presumed to be hiding something.\textsuperscript{128} If they chose to carry without a reason, such as a threat to their lives or property, then they could be considered “gun toters.”

The debate over what role firearms should have in society is reflected in the brief discussion over whether or not to include a provision for permits to carry concealed weapons in the Sims Bill. Thomas Upton Sisson, who had denounced pistol manufacture in 1911, opposed the bill because it had no provision for permits to carry concealed weapons. Sisson declared that every American had a “God-given right to defend his own existence,” and that unless provisions existed for private citizens to carry weapons legally, it would violate their basic right to self-defense. Furthermore, he argued that criminals would never obey the law regardless of the punishment provided. As a result, it would only make it easier for a criminal to rob and murder at will because they would have no fear that common citizens might be armed.\textsuperscript{129}

Johnson and the committee refused to allow permits because they considered that this practice in the various states was “greatly abused.” Cases of corruption had been reported by the press, and, in 1911, Mayor Gaynor of New York City reprimanded Police Magistrate Corrigan for issuing a permit to carry a pistol to a known Chinatown gang leader, and, in 1919, an editorial in the Democrat newspaper, \textit{The New York World}, claimed that judges from upstate New York were issuing permits to gangsters.\textsuperscript{130} This fear of corruption also fuelled the belief that American governments could never disarm

\textsuperscript{128} Kennett and Anderson, \textit{The Gun in America}, pp. 163-164.
\textsuperscript{129} \textit{The Congressional Record}, 48, 11 April 1912, pp. 4593.
\textsuperscript{130} “Raps Corrigan for Arming Tong Leader,” \textit{The New York World}, 10 October 1911.
criminals. Assistant District Attorney James E. Smith of New York argued that the law would only disarm law abiding citizens, while Judge Goff and Judge Francis X. Mancuso argued that criminals could always find arms. Furthermore, Mancuso argued that even if criminals could be disarmed, their very will to kill and steal would not simply go away. With or without guns, a criminal would fight, murder, and find an accomplice willing to smuggle arms for them. In the case of the Sims Bill, the chief concern was that gangsters could manipulate the system for issuing permits to carry pistols. In fact, New York newspapers like The Evening World had claimed that corrupt judges in upstate New York accepted bribes for pistol permits. The fear that corruption could transform a permit system into a license for well-connected criminals to carry arms was thus the chief reason for opposing a permit provision.

Despite Sisson’s objections, no permit provisions were added to the Sims Bill. The law was passed by the House and sent to the Senate Committee on the District of Columbia, but it was not reported out by the committee. Sims refused to give up. The next year, he submitted two more bills, one of which was identical to his earlier bill outlawing the open or concealed carrying of any pistol, dirk, bowie knife, slingshot, etc., and another that declared the selling of any such weapons a misdemeanor in the District of Columbia. Neither bill emerged from committee in the House, but Sims continued to submit his bills until his last term in Congress in 1919-1920.

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133 Lamar T. Beman, 40; The Congressional Record, 65, 7 Feb. 1924.
134 The Evening World “Upstate Judges can arm Gunmen to Shoot Up City,” p. 11, Jan 24, 1919
135 Congressional Record, Vol. 48, 11 April 1912, pp. 4593.
Though the Sims Bill would only directly affect the District of Columbia, Congressman Johnson argued that this bill would serve as a model for other states to follow. However, the bill was not the first of its kind and only mandated a harsher punishment for an already criminalized act. The motivation behind the Sims Bill was the perceived failure of earlier firearms laws to end the carrying of concealed weapons.\(^{136}\) Nor were firearms laws the only problem. Indeed, during the Progressive Era, state governments had trouble enforcing many laws, including those that sought to control the trade in pornography, alcohol, and condoms. There were no federal bureaus available to monitor these sorts of activities, as all remained under state jurisdiction.\(^{137}\) Additionally, outlawing a commonly available item like a firearm required a great deal of resources. Federal power would expand significantly during and after the First World War, and with the enactment of the Volstead Act in 1918, the Federal Government began shouldering some of the responsibility to fight the trade in alcohol.\(^{138}\) Again, state institutions policed their own districts, but it was imperative that alcohol be kept out of government-controlled outlets like the United States Mail. Furthermore, the interstate travel of people who carried firearms in their cars or in their luggage had to be monitored if a ban on specific types of weapons was to be successful. Just like the states’ prohibition laws, firearms laws that banned specific weapons or placed restrictions on their purchase were difficult to enforce because of the interstate trade in firearms. It was the trouble in enforcing state regulations that would inspire the next major firearms bill proposed to Congress, the Shields Bill.

\(^{136}\) Congressional Record, Vol. 48, 11 April 1912, pp. 4593.

\(^{137}\) James A. Morone, Hellfire Nation, 320-325.

\(^{138}\) Ibid., 320-325.
In 1915, Senator John Knight Shields of Tennessee, whose home state had banned the possession of all pistols except the Army and Navy types, proposed a bill to Congress which would ban the interstate shipment of any pistol except those allowed by his home state.\textsuperscript{139} The Shields Bill was, in a way, an attempt to apply Tennessee’s law to the entire United States, but it was also an attempt to buttress firearms restrictions in other states. While the debate over Sims’s proposal and indeed on firearms bills in general was often anecdotal and heavily subjective, Shields was able to provide various statistics to support his act. He cited Frederick L. Hoffmann’s data and declared that the chief weapon used by criminals was the pistol and that, by banning them from the mails, the crime rate nationally would fall dramatically.\textsuperscript{140} He was not alone. At his back was a significant group of supporters including the American Bar Association, which had declared in 1912 that pistols were used in 90\% of homicides, and the Tennessee Legislature, which sent a petition in support of the bill.\textsuperscript{141} The Shields Bill was sent to the Committee on the Judiciary, but it was never reported out. Sadly, the committee left behind no records of a debate, so its reasoning is unknown. Time after time Shields submitted his bill, but it did not receive a hearing until 1921.

It has been suggested by Kennett and Anderson, and again by Alexander Deconde, that any law curbing firearms during the First World War was doomed as a result of the stronger arguments for military preparedness, yet newspapers did not stop talking about violent crimes involving firearms. Furthermore, the United States did not

\textsuperscript{139} Army and Navy type referred to those pistols intended for service in the United States Army and Navy.
\textsuperscript{140} Frederick L. Hoffman, \textit{The Homicide Problem} (The Prudential Press: Newark, 1925) 30-31; \textit{Congressional Record}, Vol. 52, 19 Feb. 1915.
join in the fighting until 1917 and before that time, the Democrats, who held the presidency, blamed militarism as the cause for the war in Europe. In a speech delivered to the City Club of Saint Louis, William Jennings Bryan denounced the militarism which he deemed responsible for the War in Europe and compared the diplomacy that had caused the war to the practice of “gun toting” in America. He indicated that military preparedness could not prevent war. “If individual pistol toting is a menace to the peace of a community,” he reasoned, “pistol toting by nations in logic must be a menace to the peace of the world.” Like the “pistol toter,” it was only a matter of time before countries that built up their arsenals and mutually threatened one another would go to war.

This does not mean that the Southern and Western Democrats who supported strong pistol laws were against the practice of arming citizens. Indeed, while the pistol was stigmatized, shotguns and particularly rifles were considered quite appropriate for civilians. In 1911, Thomas Upton Sisson had suggested that citizens should be armed “with rifles and not with pistols,” because, “battles are won with rifles, not pistols.” Indeed, in 1903, Congress created the Office of the Director of Civilian Marksmanship to teach potential soldiers how to shoot rifles. Until 1926, the National Rifle Association followed a similar program by promoting shooting competitions. While “pistol toting” was generally considered an illegitimate form of arms bearing, armed citizens still played an important part in considerations of future laws.

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143 *Congressional Record*, Vol. 47, 28 April 1911, pp. 733-734.
Even as the National Guards developed during World War I into professional military forces that were different from the citizen militias of earlier years, the armed citizen remained an important consideration for defense and fighting crime. Until World War I, National Guards could run the gamut from highly trained military forces to voluntary militias. Despite their increasing professionalization, the national guardsman was not the armed citizen often invoked during the period. Armed citizens were described as individuals who would join the armed services to defend their country in times of crisis. In 1903, the Militia Act sought to standardize the various militias into the National Guard. While the law referred to this as the “organized militia,” the law also described a “reserve militia” which included all able bodied men between the ages of 18 and 45 who could possess and train with arms. In this way, the ownership and training in the use of arms for militia service were protected.

After the end of World War I, opponents of firearms laws argued that any curb on the private ownership of firearms would threaten America’s military readiness and transform honest citizens into inviting targets for armed criminals. Benedict Crowell, President of the Army Ordinance Association, argued that a reduction in the production of arms would dramatically undermine America’s ability to produce weapons during wartime. Military officers and supporters of laws devoted to strengthening the American military argued that any limitation on firearms ownership would reduce the arms manufacturing capability of the United States. This would, in turn, diminish the

147 Congressional Record, Vol. 61, 24 June 1921, pp. 3021
nation’s ability to meet its military production needs and undermine its defensive capability.\footnote{Congressional Record, Vol. 65, 7 Feb. 1924; Congressional Record, Vol. 56, “Appendix,” 1918, pp. 612.} This concern was founded upon the inadequate arms production encountered during World War I. Government-owned armories had proven incapable of meeting the wartime demand for firearms, and private companies such as Winchester produced most of the rifles used by the American forces during the war. After the end of World War I, Congress explored the idea of closing the Government armories in order to reduce the military budget. The armed services needed a supply of arms, and so figures like Major General C. C. Williams, the Chief of Ordinance, campaigned for American arms production in order to ensure the ability of the United States to satisfy its wartime need for arms and soldiers.\footnote{Congressional Record, Vol. 58, 24 June 1919, pp. 1675.}

Furthermore, arms-bearing by American civilians was declared to be vital to ensuring America’s defense in future conflicts. Describing arms ownership as a duty of citizenship, John Marvin Jones of Texas argued that America could learn from Switzerland which, he said, “Has no standing army, no professional soldiers. That little country has universal military training and universal liability to service, and can mobilize her entire fighting strength in an incredibly short period of time.”\footnote{Congressional Record, Vol. 55, April 26, 1917 55, pp. 1201.} Indeed, arms-bearing was even invoked in the debate on women’s suffrage. It was argued that, because women were not obligated to bear arms, they could not be full citizens in America. This is not to say that any consensus was ever reached about the importance of bearing arms, and this anti-women’s suffrage argument was brilliantly turned on its head by Senator William Elijah Cox of Indiana who noted that, “In my state the vilest man that walks the
highways, fresh from the jails and penitentiaries, with a pistol in one pocket and a pint of whiskey in the other, if not disqualified by the court, can on election day go to the booth.”\textsuperscript{151}

Though the war resulted in calls to protect America’s firearms industry and the right to bear arms, the closing years of the First World War brought two changes that would make firearms legislation at the national level more urgent: the creation of crime commissions in American cities and the passage of the Volstead Act. As the first organization of its type, the Chicago Crime Commission engaged prominent Chicagoans in the effort to control crime through research and publications. Even before the war ended, newspaper articles anticipated a crime wave after several brazen daylight robberies.\textsuperscript{152} In addition, with so many soldiers returning from the war, it was feared that they would bring firearms with them and contribute to a rise in violent crime.\textsuperscript{153}

With the passage of the Volstead Act, the trade and consumption of alcohol across the United States was officially banned, but enacting a law was a far cry from enforcing it, and bootlegging and illegally manufacturing spirits soon boomed. Organized gangs devoted to smuggling alcohol emerged, their work often protected by rampant corruption in the various state and municipal police forces responsible for enforcing the law.\textsuperscript{154} The apparent failure of prohibition laws to stem national alcohol consumption was seized upon by various newspapers and writers who had opposed federal legislation on firearms and the Sullivan Law. They pointed out that if the government could not stop the trade in

\begin{footnotesize}
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\item \textsuperscript{151} Congressional Record, Vol. 52, 12 Jan. 1915, pp. 1446.
\item \textsuperscript{152} Virgil W. Peterson, Crime Commissions in the United States (Chicago Crime Commission: Chicago, 1945) pp. 3.
\item \textsuperscript{153} “How War Jolted the Sullivan Law,” The Sun August 3, 1919.
\item \textsuperscript{154} Athan G. Theoharis, The FBI and American Democracy: A Brief Critical History (University Press of Kansas: Lawrence, 2004) pp. 36-37.
\end{itemize}
\end{footnotesize}
alcohol then it could certainly not stop criminals from procuring illicit firearms. Still, while it was now illegal to produce and sell alcohol, firearms could be purchased by mail order, and the outbreak of highly publicized gang warfare kept the criminal use of firearms in the spotlight.

Mailing Firearms

Ultimately, the difficulty encountered in controlling the interstate trade in firearms would inspire the first federal firearms act, which was known as the Miller Bill or the Mailing of Firearms Act. On December 17, 1924, Representative Christian Ramseyer, Republican of Iowa, introduced the bill, along with a brief letter from Postmaster General Harry S. New, to the House of Representatives. The act read that, “pistols, revolvers and other firearms capable of being concealed on the person, are hereby declared to be nonmailable and shall not be deposited in or carried by the mails…” in the Postal Service.” There were certain exceptions. Businesses that sold or manufactured such firearms could still ship them to one another, and the Postmaster General was permitted to create the rules whereby police or military officers could mail handguns.

Both the House Committee on the Post Office and the Postmaster General approved of the bill, and Ramseyer pointed out that there were many precedents for outlawing the mailing of specific articles including explosives and liquor. With regard to firearms, Ramseyer said, “because of the ease with which this kind of firearms can be acquired from the mail-order houses through the mails it is impossible to prevent them

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155 “Anti-Pistol Laws,” American Bar Association Journal, Law Notes 26, 1 April 1922.
from getting into the hands of the lawless element.”157 In this, the general motivation offered by Ramseyer was much the same as John Knight Shields had offered for his bill in 1915. But, unlike the Shields Bill, this measure actually made it to the floor of Congress.158

The Mailing of Firearms Act would be passed by a substantial margin. Moreover, it received broad bipartisan support in the debates and the vote in the House of Representatives. In the rather lengthy floor debates over the bill, its chief defense remained constant. Both Ramseyer and its author Representative John F. Miller, Republican of Washington State, and the former mayor of Seattle, explained that the measure was merely an attempt to buttress the firearms laws already in existence among the many states and municipalities. “This bill is specially designed to help corral or control the lawless elements in the large cities,” Ramseyer explained.159 He argued that it would not usurp state controls or threaten the ownership of firearms.

Nevertheless, the bill was staunchly opposed by Thomas Lindsay Blanton of Texas, Otis Theodore Wingo of Arkansas, and Henry Bascom Steagall of Alabama. The chief objection raised by Blanton was that, by removing this avenue of purchasing firearms, it “infringed” upon the Second Amendment right to keep and bear arms.160 Blanton was adamant that the chief cause of crime was the carrying of concealed pistols and that this was what had to be stamped out. This bill, he argued, could not prevent even

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158 It is difficult to say precisely why the Shields Bill never made it to congress because the Committee on the Judiciary, which received the bill, never reported it out, nor do the records indicate that the measure was debated. Kennett and Anderson argued that the measure was suppressed because Frank Brandegee of Connecticut had opposed it in the committee. The Miller Bill was handled by the Committee on the Post Office and Post Roads, which proved willing to report it to the House.
one criminal from obtaining a handgun; instead, the law would disarm law-abiding citizens.\textsuperscript{161} He had no statistics to cite, relying upon anecdotes referring to common citizens encountering criminals, rather than data. Yet his analysis reveals his uneasiness with the growing power of law enforcement. Blanton feared that this law and any other which impeded the trade in firearms would leave Americans unable to perform a vital civic duty by participating in a posse or fighting in time of war. As he put it, “I hope that every American boy, whether he is from Texas, New York, or Washington, will know how to use a six-shooter. I hope he will learn from his hip to hit a dime 20 paces off.”\textsuperscript{162} His view of the Second Amendment was thus opposed to any law regulating the sale of firearms. Despite this, Blanton did declare himself a staunch supporter of tough legislation targeting the carrying of concealed weapons.\textsuperscript{163}

In arguing that the Second Amendment guaranteed an individual right, Blanton invoked the original intent of the Founding Fathers. He argued that when the amendment was written, the framers of the constitution were worried about the potential of military power to crush the fledgling democracy.\textsuperscript{164} Other Congressmen disagreed. Johnathan Mayhew Wainwright of New York read the full text of the Second Amendment and reached a different conclusion. “I doubt if that has ever been construed to mean that the individual citizen has any right to bear arms.”\textsuperscript{165} Blanton and Steagall disagreed.\textsuperscript{166} John Clark Ketcham, Republican of Minnesota, quoted Thomas M. Cooley, a Michigan judge who, based on original intent, argued that “the arms intended by the Constitution of the

\textsuperscript{161} Congressional Record, Vol. 66, 17 Dec. 1924 pp. 727.
\textsuperscript{162} Congressional Record, Vol. 66, 17 Dec. 1924 pp. 728.
\textsuperscript{163} Congressional Record, Vol. 66, 17 Dec. 1924 pp. 727.
\textsuperscript{164} Congressional Record, Vol. 66, 17 Dec. 1924 pp. 728.
\textsuperscript{165} Congressional Record, Vol. 66, 17 Dec. 1924 pp. 733.
\textsuperscript{166} Congressional Record, Vol. 66, 17 Dec. 1924 pp. 733.
United States are such as are suitable for the general defense of the community, and the secret carrying of those suited merely to deadly individual encounters may be prohibited. The meaning of the Second Amendment, and ultimately the constitution itself, proved to be subordinate to individual representatives’ views of what role the pistol played in crime and in the defense of the republic.

Indeed, some questioned whether or not it made sense that civilians owned pistols when militia service required rifles. It was argued by Heartsill Ragon, Democrat of Arkansas, that pistols were only meant to kill and that, unlike rifles and shotguns, they had no place in hunting or sport. Ironically, rifles and shotguns were still of value for their ability to kill in war, but pistols represented a different kind of violence. In general, handguns were considered different from other firearms because they were the ones associated with crime. They were also the ones that could be carried surreptitiously.

Steagall questioned the purpose of creating such a bill, arguing that the states could extradite people for mailing prohibited items from one state to another. In that light, he argued that the federal government need not be involved in controlling the traffic in firearms. As for the Miller Bill, he considered it a sinister piece of legislation. To enforce the bill, he argued, the United States Post Office would require an ever larger number of postal inspectors to open peoples’ mail and ensure that no prohibited items were being sent. He deemed this an unnecessary encroachment of Federal power into a matter best policed by the states.

167 Congressional Record, Vol. 66, 17 Dec. 1924 pp. 733
Steagall’s view did not carry the day. The bill passed with 281 yeas, 40 nays, and 111 congressmen not voting.\footnote{Congressional Record, Vol. 66, 17 Dec. 1924 pp. 737.} The Mailing of Firearms Act was the only piece of Federal firearms legislation to be proposed by a Republican. While the bill had enjoyed substantial Democratic support, of the 40 representatives who voted against the bill, 24 were Democrats. Of those, five were from Texas, three from Missouri, and five from Alabama which had the strongest concentration of votes in opposition. The remaining “no” votes came from a variety of states. Of the Republicans, three were from Massachusetts, and four from Missouri. Massachusetts was known for its firearms manufacture, but only one vote of five was counted among the opposition from Connecticut, another firearms manufacturing state. Opponents of the bill were a tiny minority, and they do not demonstrate a clear party divide over the issue of firearms restriction. Of the states mentioned above, Alabama, and Texas allowed someone to carry a concealed pistol without a license if his life were threatened. In Missouri, a license had to be acquired before anyone could buy a handgun, and in Massachusetts a permit was required to carry a pistol for any purpose. These states varied in the number and severity of the firearms laws they possessed, but so did the states whose congressmen voted in favor of the bill.\footnote{Congressional Record, Vol. 66, 17 Dec. 1924 pp. 737.} Ultimately, the vote on the Miller Bill in the House of Representatives demonstrates a significant consensus on the propriety of banning handguns from the mail that transcended the North/South divide.

In defense of the bill, Miller and Ramseyer had argued that it did not prevent a citizen from purchasing or owning firearms. It only prevented him from ordering these through the mail. Furthermore, they claimed, the bill was not an encroachment of federal
power. Instead it was an attempt to rein in a federal organization which was being used to transport pistols into states where they were banned. As Ragon put it, “Under the present conditions we have that prohibits the sale of weapons in my State you are permitting the United States Government… to commit a criminal offense.”173 Time and time again it was pointed out that almost every state had a law banning the concealed carrying of handguns and many had laws requiring a permit to purchase one in the first place. Miller and Ramseyer argued that this law would not infringe on the Second Amendment. Instead, it would enhance the ability of the states to control the trade in firearms.174 Though William Brockman Bankhead suggested the bill would only shift the trade in pistols to the express companies, Ramseyer assured him that the second part of the bill, currently before the committee on interstate and foreign commerce, would shut that off as well.175 Miller also claimed that the bill enjoyed substantial support from police commissioners throughout the United States.176

While the House argued over whether or not the measure should punish the receiver of a firearm as well as the sender, the bill met no real resistance. It was passed and sent on to the Senate.177 In the Senate, the bill was only briefly discussed with Senator David Aiken Reed, Republican of Pennsylvania, and unnamed others saying it should “go over” and be discussed later. George Higgins Moses, Republican of New Hampshire, objected to ignoring “a measure of such importance.” Reed responded with the then very familiar argument that curbing the sale of weapons only disarmed law-

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175 Congressional Record, Vol. 66, 17 Dec. 1924 pp. 726. The second half of the bill was not reported out of committee and was never enacted.
abiding citizens. Furthermore, he argued that even the state acts to outlaw the carrying of concealed weapons or the sale of handguns had already failed in New York under the Sullivan Law, and so he denigrated the Miller Bill as similarly worthless. Thus concluded the entire debate over the bill on December 10, and the bill was passed over.\footnote{Congressional Record, Vol. 68, 10 Dec. 1926, p. 236.} On December 17, the bill came up again, and this time Senator William Henry King, Democrat of Utah moved that it should go over. Senator Royal Samuel Copeland, Democrat of New York objected, pointing out that his own state was trying to stamp out the use of pistols but that it was impossible thanks to their interstate transport. Again, the bill was passed over.\footnote{Congressional Record, Vol. 68, 17 Dec. 1926, p. 641.} Finally, on February 2, 1927, the bill was brought up again. The full bill was read, along with an amendment drawn up by the Committee on the Post Office and Post Roads. There were no objections to considering the bill and it passed without debate.\footnote{Congressional Record, Vol. 68, 2 Feb. 1927, p. 2805.} The measure was then sent back to the House which approved of the amendment to the wording.\footnote{Congressional Record, Vol. 68, 4 Feb. 1927, p. 2983.} Now it was up to Calvin Coolidge to decide whether or not to sign the measure. President Coolidge is most famously remembered for his general silence on many issues, and firearms laws were no different. He did not himself discuss them publicly, but he did receive a number of letters demanding that the shipment of firearms through the mail should end. He signed the bill into law on February 8, 1927.

Ultimately, the Mailing of Firearms Act would become a notorious failure, and the inability of the measure to reduce the interstate shipment of handguns became a subject of further hearings on firearms bills in the 1930s. While concealable handguns had become illegal to ship through the post office, it was still perfectly legal to send them
via private express companies. Thus, the loophole that the original Miller Bill had attempted to counter was not closed, because the companion bill never left committee. The reasons remain obscure, partly because no minutes from the Committee on the Judiciary describing a debate over the bill survive. Nevertheless, William McAdoo labeled the bill a failure, and historians like Kennett and Anderson have echoed these sentiments. However, the law’s loophole cannot be attributed to its author. Instead, the shortcomings of the Mailing of Firearms Act must be attributed to the committees to which it was sent.

**Conclusion**

As lawmakers set out to stop the practice of “gun toting,” they faced numerous challenges both in writing and enacting enforceable laws. At the heart of the firearms debate between 1911 and 1927 were four basic questions: what specific practices were to be controlled, was the pistol too dangerous for civilians to own, how should the practice of carrying a concealed firearm be punished, how could the states enforce their own laws curbing the trade in firearms? It was not up to Congress to answer each of these, and if nothing else, the Mailing of Firearms Act demonstrates the reluctance of the Federal Government to become involved because it was envisioned as a supplement to state laws, rather than a stand-alone federal initiative. By declaring that the Postmaster General would create the regulations responsible for restricting the trade in firearms, the Post Office Department was saddled with the responsibility for preventing yet another illicit article from passing through its hands.

In principle, the Mailing of Firearms Act was an attempt to buttress state firearms regulations which had developed differently among the states. While openly carrying
firearms was perfectly legal in one state, it was absolutely banned in another, and while carrying a concealed firearm was a misdemeanor in one state, it was a felony in another. Punishments varied, policies varied, and yet a certain unifying principle united these states as well. That principle was that firearms had to be kept out of the hands of criminals but not out of the hands of honest citizens. Even in New York, there were no laws preventing a citizen from owning a rifle or shotgun.

Though many states had certain laws in common, the disjunction from state to state, as well as the many legislative attempts to prevent criminals from obtaining firearms, had led to the creation of a vast and confusing complex of conceptually similar and administratively different laws in different jurisdictions. This disjuncture, and the inability of the states to exercise absolute control over the trade in illegal weapons, has given America the most complicated system of firearms laws in the world. Furthermore, the firearms laws that were first proposed and enacted at the Federal level had only weak chances of enforcement.

The firearms legislation proposed between 1911 and 1927 was largely defined by its attempt to stem the practice of “gun toting” in order to reduce violence. New laws were enacted in all fifty states and territories during this period that outlawed the carrying of arms and attempted to bring the trade and sale of pistols under government control. This effort was not isolated in any one region, as the new laws were enacted in the Northeast, the West, and the South. However, lawmakers were aware that automobiles and the growing interconnection of the states made it difficult to control the flow of people, much less firearms. Legislators who deemed arms-bearing a civic duty of all citizens still sought a means of keeping arms out of the hands of criminals. The chief
culprit responsible for crime was the “gun toter.” The term was complicated and referred to many kinds of activities that lawmakers wanted to control. The gun toter was an irresponsible carrier and user of arms, a hardened criminal, a foreign born immigrant, an African American, an anarchist, and a labor unionist. In attempting to control the activities of “gun toters,” legislators required more government control of the arms trade and sought to prevent crimes by restricting access to weapons.
Bibliography


Charles Schribner’s Sons: New York, 1913.


*Arizona Republican*, 27 March 1911, 6.


*The Sun*, 11 May 1913, pp. 4.


*The Congressional Record*, 47th Congress, United States Government Printing Office:

Washington D. C., House of Representatives, April 28, 1911.

*The Congressional Record*, 48th Congress, United States Government Printing Office:

Washington D.C., House of Representatives, March 5, 1912.

*The Congressional Record*, 48th Congress, United States Government Printing Office:

Washington D. C., 11 April 1912, pp. 4593.

*The Congressional Record*, 65th Congress, United States Government Printing Office:

Washington D.C., House of Representatives, 7 Feb. 1924.

*The Congressional Record*, 65th Congress, United States Government Printing Office:
Washington D. C., Senate, May 12, 1924.


The Congressional Record, 68th Congress, United States Government Printing Office:

*The Congressional Record, 68th Congress, United States Government Printing Office:*