



## IN THEIR OWN WORDS

*"I agree with my other country sheriff colleagues. I am instructing my deputies not to enforce Initiative 1639 in Grant country while the constitutional validity remains in argument at the federal courts level. I swore an oath to defend our citizens and their constitutionally protected rights. I do not believe the popular vote overrules that."*

**Grant Country, WA Sheriff Tom Jones refusing to enforce Washington State's I-1639**

*"You're just taking guns out of law-abiding citizens' hands. This is not going to affect the criminals out there. They're going to be able to get guns and they do not follow the law."*

**Lee County, NM Sheriff Corey Helton commenting on a statement by 29 of the 33 sheriffs representing the New Mexico Sheriff's Association opposing gun control bills being considered by the legislature.**

*"Besides the advantage of being armed, which the Americans possess over the people of almost every other nation.. (where) ..the governments are afraid to trust the people with arms."*

**(Federalist Papers #46)**

## MORE ON THE HISTORY OF GUN CONTROL

Last month we looked at The National Firearms Act (NFA) of 1934. You might ask yourself why spend time learning about something that happened in 1934. It is because the things we learn about this law directly relates to what has been and is happening in our country. Our Founding Fathers feared a powerful executive a federal government. In the Declaration of Independence and especially in the Constitution they created a representative republic where the powers of the federal government were limited, or enumerated; the freedom and liberty of the citizens were paramount; and where the states had

equal power with the federal government. The Founding Fathers wanted to make passing laws difficult; therefore they deliberately created friction in our government by creating three co-equal branches of government – legislative, judicial, and executive.

"Well, Doctor, what have we got—a Republic or a Monarchy? A Republic, if you can keep it." This response attributed to Benjamin Franklin at the close of the Constitutional Convention of 1787, when queried as he left Independence Hall on the final day of deliberation. America is a republic not a democracy.

A republic is a form of government in which affairs of state are a "public matter" (Latin: *res publica*), not the private concern of the rulers, in which public offices are consequently appointed or elected rather than privately accommodated. Wikiquote. A democracy is two wolves and a sheep deciding who is going to be eaten first.

Over the course of America's 243 years our republic has changed by what I will call "incrementalism." Just look at what has happened with states' rights. The Constitution set up two levels of government; federal government and state governments. The powers of the federal government were limited and specified in the Constitution. Over the years the power of the federal government has increased at the expense of states' rights. A major tool in this power shift has been access to federal monies. The federal government says we will give these dollars to states for some reason as long as the states cede their authority to the federal government. President Trump recently said that "America will never be a socialist country." However there are many aspects of our government that have socialist aspects and we now have political office-holders and 2020 presidential candidates that are admitted socialists.

Another unique aspect of the Constitution was the Bill of Rights, where the Founding Fathers decided that

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there some individual freedoms and liberty that MUST be protected. I'll not go through the many policies and laws that have eroded the Bill of Rights. I think the assault on three of these Rights have direct impact on the history of gun control and are inextricably linked. These are Amendment I, the freedom of speech; Amendment II, right to keep and bear arms; and Amendment IV, protection of property from unreasonable search and seizure.

Ben Franklin said **"Whoever would overthrow the liberty of a nation must begin by subduing the freeness of speech."**

Free speech has been under assault for generations. The whole "political correctness" movement is a direct assault on freedom of speech. A concerning development has been groups of people calling any speech that they oppose as "hate speech." We now see people advocating the Second Amendment and the exercise of those rights being banned from college campuses, on social media, or being able to conduct business on the web.

**"The strongest reason for the people to retain the right to keep and bear arms is, as a last resort, to protect themselves against tyranny in government."** (Thomas Jefferson Papers p. 334, 1950) Did you know that prior to The National Firearms Act of 1934 there were no restrictions to the Second Amendment? Citizens owned, bought, and sold all manner of guns, including machine guns. More on this follows.

**"If Tyranny and Oppression come to this land, it will be in the guise of fighting a foreign enemy."** James Madison.

While the Fourth Amendment was eroded by various laws and policies, the biggest attack came via the Patriot Act, <https://www.justice.gov/archive/ll/highlights.htm> and the Military Commissions Act <https://www.govtrack.us/congress/bills/109/hr6166>.

"Attorney General Mukasey also has "proposed a new domestic-spying measure that would make it easier for state and local police to collect intelligence about Americans, share the sensitive data with federal agencies and retain it for at least 10 years" (The Washington Post, Aug. 16, 2008). State and local police agencies would not be hampered by Fourth Amendment's requirements that they must search and seize traces of our activities and beliefs only upon "probable cause" that we are, or have been or plan to be, involved in criminal actions. They would need only a suspicion that we somehow are involved in terrorism or are providing "material support" to terrorism. "Material support" can mean sending a check to a charitable organization that, unknown to the giver, provides funds

with a group later listed by the government as a terrorist group."

"Perhaps one of the most blatant violations of the 4th Amendment is the use of the National Security Letter (NSL) power under 18 U.S.C. § 2709 as expanded by PATRIOT Section 505. These letters served on communications service providers like phone companies and ISPs allow the FBI to secretly demand data about ordinary American citizens' private communications and Internet activity without any meaningful oversight or prior judicial review. Recipients of NSLs are subject to a gag order that forbids them from ever revealing the letters' existence to their coworkers to their friends or even to their family members much less the public." <https://www.jeremiahproject.com/new-world-order/assault-fourth-amendment/>

**"They that give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety."** Ben Franklin.

The National Firearms Act of 1934, <https://www.atf.gov/rules-and-regulations/national-firearms-act>, passed with little controversy. First it was just a tax. NFA weapons were taxed at \$200 for each weapon and each time a weapon changes ownership. Second it covered a relatively small number of types of weapons: full automatic weapons; rifles and shotguns with barrels shorter than 18 inches; rifles and shotguns with an overall length less than 26 inches; and any device designed or redesigned to muffle the report of a firearm (silencer). It is interesting that the first draft of the NFA included handguns. But there was a huge pushback from women who wanted handguns for personal protection and thus handguns were removed from the bill. Think about the repercussions that would have occurred if handguns had been included. The reverberations would have been historical for gun rights and certainly would affect the landscape today.

In almost every discussion of the NFA is a description of the 1929 "St. Valentine's Day Massacre." Think about this - The St. Valentine's Day Massacre happened in 1929 and was directed related to a feud of illegal liquor. This was during the Prohibition era. And importantly, Prohibition (18th Amendment) was overturned by the 21st Amendment in 1933. So the number one reason cited for the NFA was the result of a fight between rival gangs over bootleg liquor, which was no longer illegal when the NFA was passed.

Furthermore, as with many proposed gun control legislation proposed today, it is absurd to think that the

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gangs of the era would pay the \$200 tax, have their owners fingerprinted, and submit to an FBI investigation to keep their machine guns.

One consequence of the NFA was that new development of machine guns by individuals ceased. All the machine guns in use at the time of the passage of the NFA were designed and built by individuals. All the machine guns used in WWI were designed by individual inventors. So one could make the argument that the NFA was the cause of a national security problem. The U.S. was not going to keep up with machine gun development with the rest of the world.

The real reason for the passage of the NFA was simply the expansion of federal power. Franklin D. Roosevelt was President and he was in the process of vastly increasing the size and reach of the federal government.

### **THE GUN CONTROL ACT (GCA) OF 1968**

This Act amended the NFA. "The NFA remained a tax statute, in law if not in fact, within Title 26 of the United States Code (the Internal Revenue Code). It retained the existing scheme of registration to enforce the making, transfer taxes and special occupational taxes required by the 1934 Act. The primary changes to the NFA consisted of the addition of destructive devices to the previously enumerated categories of so called gangster weapons, and the termination of authority to register existing NFA firearms after an initial amnesty period. The category of destructive devices included weapons with a bore exceeding one-half inch in diameter, explosive and poison gas bombs, projectiles with explosive warheads and rockets and missiles. While this change attracted little attention at the time, it conferred upon the Bureau of Alcohol, Tobacco and Firearms (ATF) jurisdiction over the primary federal law relating to bombing. Although future legislation expanded the jurisdiction of the Federal Bureau of Investigation (FBI) over bombings, ATF retained joint jurisdiction in this area and later extended that jurisdiction into commercial arson."

"Although the GCA created no comprehensive system of control or regulation of firearms in the possession of in-

dividual citizens, it significantly altered the rules governing commercial firearms transactions. It prohibited engaging in the business of manufacturing, importing or dealing in firearms without first obtaining a federal license. Licensees were prohibited from selling firearms to out-of-state residents, minors, felons, persons under indictment for felonies, fugitives and certain other categories of persons and required to maintain records of all sales. The law prohibited interstate mail order sales and tightly restricted intrastate mail order sales. Manufacturers and importers had to begin identifying every firearm by stamping the name of the manufacturer or importer and a serial number on the receiver. Firearms not suitable for sporting purposes and surplus military firearms were restricted from importation." <http://jpfo.org/articles-assd02/gca68-nra4.htm>

Passage of the GCA was the result of ten years of federal frustration with the "limitations" of the NFA. Then two events galvanized the Congress to enact further gun control legislation. These events were the assassinations of Martin Luther King in April 1968 and Robert F. Kennedy in June 1968. More on the impacts of this bill next month.

**RICHARD STOUDE** - [oakridger48@msn.com](mailto:oakridger48@msn.com)

*"All that is necessary for evil to triumph is for good men to do nothing." - Edmund Burke*



### **THE RIGHT TO KEEP AND BEAR ARMS**

The Right to Keep and Bear Arms (RKBA) column is now available each month on the ORSAONLINE web site at ([www.orsaonline.org/rkba.asp](http://www.orsaonline.org/rkba.asp)). From time to time, the RKBA column will be included in the printed version which is mailed to members' homes when space permits.

Please remember that each edition of the Rangefinder is also available online at ORSAONLINE ([www.orsaonline.org/newsletters.asp](http://www.orsaonline.org/newsletters.asp)) and is normally available before the edition arrives by mail.