JOHN KARL HUDZIK
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FIREARMS LEGISLATION: THE 90th CONGRESS

Thesis for the Degree of Ph. D.
MICHIGAN STATE UNIVERSITY
JOHN KARL HUDZIK
1971

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ABSTRACT

FIREARMS LEGISLATION: THE 90th CONGRESS

By

John Karl Hudzik

This is a study of the recent and continuing controversy over firearms legislation, and in particular of the firearms debate and voting of the 1968 session of the United States Senate. The goal of the study is explication of this issue of public policy rather than any manifest attempt to establish the validity of some general model of legislative behavior. Nevertheless, some of the findings of this study may have applications beyond the immediate topical interest of firearms legislation.

Analysis is begun with an examination of the wording of the Second Amendment; the Amendment was heavily debated in the Senate, and this is an attempt to give that debate perspective. After a thorough review of Anglo-American legal traditions, the conclusion is drawn that the Second Amendment merely protects the rights of the states to maintain militia forces; the Amendment does not guarantee an individual and unregulable right to arms.

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The research model for examining Senate firearms voting behavior assumes that contending sides on gun legislation can be differentiated by the construction of ideal types, defined in a behavioral sense rather than in a philosophically deductive sense. Two procedures are incorporated under this general approach. First, through cumulative scaling techniques and roll call analysis, indices of firearms voting behavior are constructed for Senators and, in turn, related to roll call divisions on a number of other policy questions; included are welfare measures, law enforcement, foreign policy, military expenditures, and racial integration. Nine hypotheses are generated in this respect and several relationships are uncovered through the use of chi square statistics and agreement cluster matrices.

The second procedure relates firearms voting to demographic characteristics through the use of correlation and SQRR analysis. Demographic characteristics include concepts such as urbanization, ethnic and racial composition, level of domestic violence, income distribution and property value, work force configuration, level of educational attainment, the mix of economic activity, partisan identification, electoral behavior, and level of hunting activity. To secure more detailed information on these variables, some analysis is extended to the House of Representatives and Congressional Districts.

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Several of these demographic variables correlated strongly (above ±.4) with firearms voting; population density is by far the most important of these demographic variables, correlating highly (+.60 and +.70) with support for gun restrictions. Of the twenty-four demographic variables analyzed, only those which correlated highly with population density also correlated highly with gun voting. Partisan identification, electoral competition, and racial composition were not found to correlate significantly with gun voting although representatives of both black and white constituencies most immediately affected by the urban race riots of the sixties overwhelmingly supported gun restrictions. Regional cleavages, along an Eastern, Southern-Western division, were found to have far more value in describing the gun vote than partisan cleavages. But Southerners were far more politically oriented in their opposition than Westerners, insisting that firearms restrictions were a step toward an eventual police state. Westerners, neglecting the political ramifications, believed restrictions would do more harm to the law-abiding sportsman than to the criminal.

The Guttman scale analysis of firearms voting demonstrated that the firearms issues before the Senate from May to September, 1968, became more stringent and that support for these stringent positions became more generous. The assassinations of Martin Luther King and

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Robert Kennedy, and their subsequent public impacts, was found to play no small part in this change.

A final summary of findings in terms of firearms roll call behavior, voting on other selected policy issues, and constituency demographic characteristics produced several notable differences between proponents and opponents on gun legislation.

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# FIREARMS LEGISLATION: THE 90th CONGRESS

By

John Karl Hudzik

A THESIS

Submitted to
Michigan State University
in partial fulfillment of the requirements
for the degree of

DOCTOR OF PHILOSOPHY

Department of Political Science

1971

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For my family

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A special debt of gratitude is due Professors Jay Artis and Sheldon Lowry for the encouragement they gave me to complete the study and the time they made available to me from my duties in the Multidisciplinary Programs Office at Michigan State.

I am most indebted to my father and mother who continuously have encouraged my efforts.

KNOWLEDGEMENTS

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# INTRODUCTION

This is a study of the recent and continuing controversy over firearms legislation. In particular it is a study of the firearms debate during the 1968 session of the United States Senate. Unfortunately for the analyst, firearms legislation is an immensely complicated and volatile issue involving a very basic constitutional question: does Congress have the constitutional authority to regulate the use and possession of firearms? The importance of this question should be evident after reviewing the debates of the Senate during 1968, because chief among the catalogue of verbal symbols used by opponents of gun restrictions were those associated with the Second Amendment. It is reasonable, therefore, that an investigation into the proceedings of the Senate firearms controversy would include some documented investigation of the constitutional question itself. That question is raised in the first chapter of this study.

To date, there is only one academic study dealing at length with the topic of firearms legislation in the 90th Congress--The Congressional Quarterly Almanac for

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1968. However, it deals with the topic in only a loose and sometimes summary fashion. The Congressional Quarterly (CQ) maintains that the gun control vote can be explained in terms of Southern and Western Congressmen and Senators opposing firearms restrictions and Eastern and Midwestern Congressmen and Senators supporting such legislation. But it is obvious that a simple regional description of the gun vote does little to explain the real nature of the Senate and House firearms votes. In addition, although a moderately strong regional pattern appears in force on many of the firearms roll calls, there are departures from the overall pattern within many of the regions. In sum, CQ's regional schema has limited value.

CQ also puts forth a conservative-liberal explanation of the division on firearms. The conservative-liberal dichotomy is of doubtful value, however, in that the definitions of conservative and liberal are not based on a philosophical foundation but rather on a regional-party definition, i.e., Republicans and Southern Democrats are conservatives. In addition to avoiding the philosophical dimensions of a conservative-liberal dichotomy, the CQ does not seek to test the existence of a conservative-liberal split in terms of issue orientation. Moreover, there is strong evidence to suggest that the conservative coalition, as defined by CQ, was not operative during four of the roll calls votes on firearms in the Senate. The conclusion seems warranted that regional and

regional-partisan explanations of the vote, while not lacking in validity, are incomplete.

There are at least two other considerations that detract from the Congressional Quarterly's use of the conservative coalition concept. First, it is held by CQ that the conservative coalition is in effect only when a majority of Republicans and Southern Democrats vote similarly on some issue. We may question this from a number of standpoints: First, what value is there in using a concept that is always right by definition, that is non-falsifiable, that may be mere tautology; what value is there in using a normative concept that distinguishes neither philosophically nor in terms of issues; can it be said there is no orchestrated conservative cooperation when a majority of Republicans and Southern Democrats do not vote on the same side of an issue? Second, on the seven Senate roll call votes during which CQ maintains the conservative coalition was in operation, there are significant numbers of Republicans and, in a few cases, some Southern Democrats voting differently than the "conservative majority." These alarming departures are inexplicable within the definitional matrix of CQ's "conservative coalition."

This study begins where Congressional Quarterly leaves off. Analysis is with a few exceptions limited to the United States Senate from 1967 to 1968. I have chosen to explore this controversy over firearms for two reasons:

First, there is presently no thorough academic documentation of the full content and scope of the recent Senate (or House) debate on firearms. Second, exploration of the contending arguments and the forces behind them will help to place in better perspective a debate that is likely to be with us for some time to come. But there are also questions at the immediate level of normal human curiosity which ask for answers. Why were bills strictly regulating the use of firearms debated so heatedly and extensively in Congress? Why were some forms of regulation, such as the banning of mail order sales, acceptable, while the registration of firearms was unacceptable? There is no simple explanation of the Congressional action, which should be of no surprise to anyone. The systematic explanation of Congressional activities on gun legislation must take into account many variables which is in part the reason for the breadth of this study.

The basic approach of this research model assumes that Senate proponents and opponents on gun legislation can be differentiated by the construction of ideal types which are defined in a behavioral sense rather than abstractly in a philosophically deductive sense. Analysis of the Senate begins by identifying concrete positions on policy questions and forming behavioral profiles for gun legislation proponents and opponents.

Two propositions are incorporated under this general approach. First, it is held that roll call behavior

on gun legislation can be used to construct indices of opposition and support among Senators for firearms regulation. It is also held that firearms roll call voting can be related to roll call behavior on a number of other issues decided by the Senate in 1968. These issues include welfare legislation, law enforcement and criminal procedures, foreign policy questions, and the military. The hypothesis is that Senators divide on these issues in fashion similar to their division on gun legislation and that these divisions will offer one distinguishing dimension for the profiles.

The second proposition holds voting on firearms restrictions is related to State demographic characteristics. These characteristics include concepts such as urbanization, ethnic and racial heterogeneity, levels of domestic violence, income distribution and property values, work force configurations, levels of educational attainment, types of economic activity, partisan identifications, and electoral behavior. Some information on relationships between Congressional District characteristics and Congressional voting patterns on firearms is also included to provide more detailed information.

The first chapter lends historical overview to the American belief in the right to bear arms. Specifically, the design provides for a legal understanding of the Second Amendment and its subsequent legislative and judicial constructions. Substantively, the chapter will

answer two questions. What was the nature of debate and legislation on arms prior to and during the adoption of the Bill of Rights? Has the legal meaning of the "right to bear arms" been altered since that time? Aside from providing insight into the American credo concerning guns, the answer to these questions can help place into perspective one of the key issues of debate in the 1968 United States Senate: what is the meaning of the Second Amendment? Historical analysis will be used to provide an understanding of the probable intent of the Second Amendment by examining events and debates surrounding adoption of the Second Amendment and by noting what the practice of regulation has been both before and after adoption. An examination will also be made of the State Constitutions to determine what meaning the organic laws of the States have assigned to the question of bearing arms.

The intent of the first chapter vis-a-vis the remaining chapters is not only to provide a legal understanding of the "right to bear arms," but to provide, as well, some historical background material relatable to the firearms roll call behavior of Senators in 1968. The chapters following the first consider more directly Senate behavior in respect to firearms legislation.

The second chapter begins the analysis of voting divisions in the Senate by examining the 14 Senate roll call votes on firearms. The analysis of each roll call identifies what is being regulated, to what degree and in

what manner, and what penalties, if any, are envisioned. Roll call votes on an issue offer a convenient, as well as important, measure of a Senator's position for that issue. For this reason, and because positions on gun legislation are defined as the dependent variable in this research design, the cumulative scaling of gun roll calls is employed to measure positions of Senators along the dependent variable.

Chapter three considers the relationship between a Senator's firearms voting record and his positions on the other issues of public policy. The relationship between state demographic characteristics and firearms voting records is considered in Chapter four. In this respect, one of the more popular explanations of the split over gun legislation is that those areas with predominantly rural compositions, or depending heavily on the hunting industry for economic viability, resisted all attempts at limiting the traffic in guns. The corollary to this thesis is that urban areas generally supported attempts to limit gun use in the United States. Over 90 per cent of the urban Representatives to Congress supported H.R. 17735, banning the mail order sale of guns. A much smaller percentage of the urban Representatives, however, supported stricter gun proposals (including gun registration), leading one to believe that the corollary of urban support was not as monolithic as one might suspect. In addition, it may be noted that many rural representatives supported

strong gun curbs. Although the broad outlines of an urban-rural split is evident, there are enough exceptions to this rule that additional clarification needs to be given to the simple urban-rural explanation. Given this, additional demographic measures are used to augment this explanation.

Chapter five is a summary and an amalgamation of information presented in the first four chapters. A profile along two dimensions (roll call behavior and state demographic characteristics) is provided for opponents and proponents on the issue of gun legislation. The chapter considers briefly whether or not political ideology, and in particular its categories of liberal and conservative, can be used to describe any of the debate and vote on firearms. Finally, the chapter explores whether there is any relationship between state constitutional firearms provisions outlined in Chapter one and the voting behavior of Senators.

## CHAPTER I

## THE RIGHT TO BEAR ARMS: ORIGINS AND EVOLUTION

It is unfortunate that we have waited 175 years to seriously debate the meaning of the Second Amendment. We are now not only confronted with a flurry of controversy over the literal meaning of the amendment but the question of how it applies in the twentieth century as well. The debate so far has chiefly centered around identifying the appropriate batches of historical antecedents to synthesize meaning from tradition. Some views content that Anglo-American traditions confirm the literalness and primacy of an absolute individual right to keep and bear arms. Others assert these traditions confirm nothing more than the collective right of the nation to provide for a common peace. Under the first position the arm itself can never be the object of restrictive legislation, but only the criminal uses to which it is put. The second position does not preclude legislation, the primary object of which is the keeping and bearing of arms, no matter what the reason. The error of this debate is that many have attempted to use history as a device to prove (or disprove) the existence

of a first-order natural right to the possession of arms by the individual. Unfortunately, this is a misuse of history and nearly obscures the value of historical investigation for the proof of natural rights cannot rest on historical empiricism. Historical analysis will be used to provide an understanding of the probable intent of the Second Amendment. In particular, I wish to exhaust legal history as a source in the gun debate and identify the primary historical antecedents on which the debate over the right to arms is based; to demonstrate the existence of a basic confusion throughout English and American history on the nature of that right; and to suggest public policy-making on this issue has generally been made on practical grounds with little or no reference to abstract questions of right.

## The Problem of Meaning in Constitutions

> A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

The failure (and perhaps benefit) of most constitutions is that the meaning of some of their words is never quite as clear and concise as we would like. The rhetoric of constitutional interpretation is the usual official prerogative of the judicial system; their methods of defining meaning are numerous. Schubert catalogues them as: gleaning the literal meaning from the words themselves; noting the direction of debate prior to and surrounding the adoption of the language; and outlining the authoritative

interpretations since passage.[1] The gleaning of literal meaning is fraught with intellectual distractions for words themselves generally offer more than one literal interpretation. Examining debates during adoption often presents a similar problem in that analysis of the debate usually does not settle precisely the issue of what was being debated. This seems most apparent on the issue of arms as the records of debate are at best sketchy. The third method may do nothing more than provide us with a convenient summary of past interpretation which may or may not settle the actual question of meaning. In the last analysis, however, it is the third method which finds the most judicial use by way of the convenient legal doctrine of stare decisis.

The central issue of the American Constitutional "right to arms" turns on the introductory phrase of the Second Amendment, "A well regulated militia, being necessary to the security of a free state, . . ." The Supreme Court, as well as the majority of scholarly literature, contends the phrase is controlling and establishes a limited right--the right of the state to provide for public order through militias. Some state supreme courts support the view, however, that two conceptually separate but practically related principles are guaranteed by the Second Amendment: First, the militia is given constitutional preference over standing armies for the common defense. Second, the right to keep and bear arms is a

personal right, devoid of any qualifications, but in part related to the manpower needs of the military. Such is the nub of the present debate and as will become clear no lexicon, nor any manipulation of meaning, will settle the issue in a reasonable manner. The attempt at literal interpretation fails to produce agreement.

Philosophical deductive reasoning frequently is used to augment arguments built on literal interpretation. The deduction, here, begins with the rather simple premise that men have a natural obligation, and a concomitant natural right, for self-defense. From this natural obligation and right is deduced the obligation and concomitant right to personally possess the means of self-defense. From the premise that these rights and obligations are natural to the individual is deduced the principle that social or political interference post-dates the right; the right is not a product of the state and, therefore, it cannot be abrogated by political or social manipulation.

The English Bill of Rights (1689) is taken as the great and original statement of the unimpeachable right of the individual to defend himself with appropriate weaponry. The Bill specifies that, "the subjects which are protestants, may have arms for their defense as allowed by law."[2] Setting aside the rather obvious gap between language in the Bill and the interpretation above, it is interesting to note that the English view the Glorious Revolution and its Bill of Rights not as revolution but as

reinstatement: the Bill of Rights does not by law promulgate a new set of rights for Englishmen, but reasserts and codifies fundamental rights existing in the traditions of the nation. Edmund Burke, in Reflections on the French Revolution, gives the most eloquent and forthright expression of this view, making it clear that the Glorious Revolution returned the nation to its legal traditions.[3]

Burke's implicit as well as compelling assumption is that the rights are not dependent for existence on the whims of legislative action. Indeed, the whole line of argument is faintly reminiscent of Thomas Hobbes who deduces from the natural order of things the natural obligation to remain in symphony with that order; and from the obligation he deduced the natural right to certain things. Seen in this light, a right to have arms is founded on principles existing prior to political or social arrangements. Men may possess arms not by the grace of the state but by their very being and their obligation to nature and themselves.

The foregoing example of deductive argument has imprecise empirical groundings, for there is no scientific way to examine the components of man's essential nature, especially the abstract qualities of obligation and right. What we have instead is a good example of proof by definition for if the premise that man naturally possesses certain absolutely inviolable rights is accepted, then it must be asserted that they are indeed inviolate, even by

government. The deductive method allows drawing conclusions, given certain premises, but there is no objective way to determine the correctness of these premises. It does little good to cite that Hobbes, and especially Locke, would agree that the basic rights of man are never alienated by social or political contract, for this does little more than establish a historical belief in these premises.

Even though history cannot be used to resolve the issue of correctness when dealing with metaphysical premises, an examination of history ought to tell us in what regard these premises have been held. Locke and Hobbes may prove little, but their historical impact, the impact of others, and the events of history may provide us with a profile of meaning that can be related to the Second Amendment. Very simply, the task is one of deciding how the subject of arms and their regulation has been treated in history. In particular, has the having of arms been recognized as a collective right or as an individual right in English and American legal traditions? Is there precedent for limiting the conditions under which arms may be borne? Is there precedent for denying the possession of arms altogether? I intend to avoid the issue of whether men do have a natural and unimpeachable right to bear arms and determine instead what the practice has been in the past.

The Anglo-Saxon Imprint

There appears to have been no common law guarantee of bearing arms comparable to the right to trial by jury or the necessity of having legislative approval for taxation.[4] Indeed, there are specific instances in English law of the bearing of arms being disallowed. The most commonly cited early legislation is the Statute of Northhampton (1328) which specifies that no man could be "armed by night or by day in fairs, markets, nor in the presence of justices or other ministers. . ."[5] The Forest and Game Laws in the British Code also offer evidence of early regulation on not only the uses to which weapons could be applied, but the places and manner in which arms might be borne. These views are further recorded in a number of early judicial cases.[6]

A more serious limiting precedent in English legal history involves prohibitions against the possession of arms. Under the Statutes of Charles II we find, "that no person who had no lands of yearly value of 100 pounds, other than the son and heir of an esquire or other persons of higher degree" could even keep a gun.[7] At least in the seventeenth century the common law "right" to have and keep arms is nothing more than a class right, a right of the privileged, for the message from Charles II is clear that the low born and the unpropertied are not to be armed. The tradition of limiting possession has been continued in England with such legislation as the Gun License Act (1870),

the Pistols Act (1903), and the Firearms Act (1937), all of which have variously restricted the use of firearms in England. It is necessary to conclude that statutory and common law recognition is given early in English history to the limitation of arms possession.

There is no doubt that the militia (or collective) bearing of arms receives consistent support and approval in English Common Law. Blackstone notes King Alford (871-899) organized the first militia and "made all subjects of his dominion soldiers."[8] This probably begins England's traditional regard for the citizen army or the militia and Blackstone's interpretation of it is probably the basis for the modern belief that a common duty to bear arms exists, for "all subjects were made soldiers." The feudal tradition of "knight service" was required of a Lord until 1660; thus the concept of militia duty had a long and rich history. But the popularity of a militia defense was not simply the product of the desire to have a home grown army, for the militia was principally meant to provide a check against the potential excesses of standing armies. The escapades of King John and his standing army are the probable progenitures of the common law distrust of standing armies, a distrust strengthened by the excesses of the peacetime standing army prior to the Glorious Revolution. The armed citizenry, or more literally an armed nobility with tenants, provided the principal mode of defense

against both external and internal enemies at least until the restoration of the Stuarts in 1660.[9]

Although the "right to bear arms" is often repeated without reference to militias, it is plain that the origin of the concept is intimately linked to the growth of an English reliance on militias. Both the obligation and right to bear arms is opposite to the idea of a government army in the English tradition.[10] But for some the individual obligation to join in the nation's collective non-professional defense is distilled to produce an individual right to arms for both the defense of nation and of self.[11] By what tortuous logic a collective duty becomes an essential individual right is unclear. Nevertheless the argument is that if the duty of the citizen is to arm himself for participation in an organized militia his need to possess appropriate arms cannot be denied.[12]

If the militia tradition is considered together with statutory regulations up to 1689, a number of conclusions are warranted. First, the common law tradition allows regulation of the use, carrying, and possession of arms, such that no generally inviolable right can be asserted. Second, the conception of a militia (collective armed citizenry) appears to be the only context within which the private possession and carrying of arms is given any kind of hearing. This does not establish a principle that the possession and carrying of arms cannot be

regulated; nor does it suggest the keeping of arms is necessarily to be tolerated outside militia service. Third, the private possession of arms for militia service seems to be derived only from the obligation that the arms must be privately supplied. Fourth, in the absence of a clearly stated right to possession for private reasons one must presume that any right to arms is dependent on the duty to serve in a militia. The right cannot be taken as a first-order individual right, but only concomitant to a collective duty. Blackstone is in agreement with this latter point for not only does he relegate the bearing of arms to a second or third level right but states plainly that the bearing of arms is to be regulated under normal statutory law:

> . . . . no man should take up arms, but with a view to defend his country and its laws. . . . Rights consist primarily, in the free employment of personal security, of personal liberty, and private property. So long as these remain inviolate, the subject is perfectly free;. . . . to vindicate these rights when actually attacked or violated, the subjects of England are entitled, in the first place, to the regular administration and free course of justice in the courts of law; next, to the right of petitioning of the king and parliament for redress of grievances; and lastly, to the right of having and using arms for self-preservation and defense.
>
> (But the bearing of arms) are to be suitable to (the) condition and degree (of the subject), and such as are allowed by law.[13]

Traditions prior to 1689 offer no real support for an individual and inviolate right to bear arms. However, opponents of restrictive gun legislation take great joy in hearkening back to the English Bill of Rights (1689) as

the written expression of the absolute right to keep and bear arms. Is this, indeed, the case? The Bill specifies "that the subjects which are protestants, may have arms for their defense suitable to their conditions, and as allowed by law."[14]

Two important qualifications in the language of the Bill itself severely circumscribe its support of an absolute individual right. In the first instance the right to have arms is clearly subject to statutory law for the citizen may have arms but only "as allowed by law." In the absence of restrictions over what the law may disallow, the conclusion is plain; the right to bear arms is that as legislation allows.

The second qualification centers about the religious qualification in the Bill. It is unlikely that all non-Protestants are excluded from this right of having arms. But if this were the case, the blow is devastating, for the right would come not from nature and deep English tradition but from membership in a religion, itself short in tradition. What is more likely, however, is that this provision in the Bill of Rights served to redress the imbalance between Protestants and Catholics in respect to the possession of arms. Indeed, the complaints against James II specifically included that "several good subjects, being protestants, [were] disarmed, at the same time when papists were both armed and employed, contrary to law."[15] And as one observer notes:

> Parliament did not appear to be claiming for the people a right of individual self-defense or self-effacement, but rather the general right, as a populace, to remain armed in the face of impossible military impositions. The resulting guarantee that Protestants might have arms for their defense necessarily related to the political grievances against King James. . . . More specifically, the grievance underlying the guarantee was that Protestants had been deprived of weapons 'at the same time when Papists were . . . armed.' The imposition lay more in the discrimination than in the disarming.[16]

The conclusion seems inescapable that if the meaning of the Second Amendment to the United States Constitution is linked to English Common Law, it is dubious any kind of inalienable individual right to have arms can be asserted. At best, it may be ventured that the "right" may be enjoyed only as the government will allow and only as maintaining a militia is necessary.

## Settlement to Revolution

The principal constitutional link between Colonial America and England is held to be the pre-Revolutionary belief that English Common Law applied equally in the New World.[17] But this is too simple a position, for Colonial conditions and Colonial reinterpretations of the English Common Law altered and added to English law in a variety of ways.

> Significantly, most of the political leaders who launched the state on their new course did not want the citizen's personal rights dependent upon the common law alone. From the earliest times each colony only borrowed from the common law those parts which suited its peculiar circumstances. . . . Indeed, the whole catalog of human rights which colonists reviewed during the years preceeding Lexington-Concord had been regarded not as common law rights, but as natural rights.[18]

The English Common Law in respect to arms was not borrowed en toto, nor was it merely considered common law. Because the frontier was never far away and colonial revenues were short, in practice there was less regulation of arms in the colonies than in England. The private bearing of arms was deemed essential for not only personal defense but for the protection of the colony at large as well. The view that arms were essential to the security of the colonies is reflected in many of the original colonial charters, including Georgia's:

> And we do by these presents for us, our heirs and successors, will grant and ordain, that the said corporation and their successors, shall have full power for and during and until the full end and term of twenty-one years, to commence from the date of these our letters patent, by any commander or other officer or officers, by them for that purpose from time to time appoint, to train and instruct, exercise and govern a militia, FOR THE SPECIAL DEFENCE AND SAFETY OF OUR SAID COLONY. . . . [Emphasis added.][19]

There is, however, no statutory, charter, or constitutional statement in early Colonial history which would seem to alter the fundamental nature of English Common Law on the subject of arms regulation. Specifically, there is no organic law restricting the degree to which government may regulate the possession and use of arms. The essential point is that the employment of arms in the Colonies was much more frequent and necessary than in England.

In accordance with its needs each colony had its own militia organization generally composed of every able bodied man from 16-60. Very few males were excluded from

the duty and this coupled with the general absence of class distinctions produced a readily definable egalitarian view on the possession of arms. As a result, the colonial militia experience approached more closely than in England the levee en masse. Colonial conditions, therefore, produced some subtle changes in one aspect of the English Common Law "right" to bear arms: from a feudal base the colonies moved to an egalitarian conception of militia service; to meet the realities of the frontier, the private keeping and bearing of arms took on much more significance than in England. Both of these changes occurred within the general framework of existing English law as there is no evidence to suggest basic English philosophical or constitutional principles were threatened in the Colonies. Further, there is no record of debate or comment to indicate the practice of maintaining a universally-armed citizenry involved anything more than the necessities of the time. Furthermore, if a general belief in the fundamental right of all citizens to keep and bear arms for private reasons was held, there is no statutory record of it prior to the mid-1770's.

There is more than casual academic support for the belief that Colonial America was little concerned with abstract philosophical thinking. Instead, it was manifestly pragmatic in its approach to problem solving, political or otherwise.[20] As noted, by Louis Hartz, there was a lack of class-based political oppressions characteristic

of European feudal society.[21] It is reasonable that the absence of a specific declaration of an individual right to bear arms can be related to both the pragmatic nature of the American life and to the lack of class-based political conflict. It can be argued, in other words, that the pre-Revolutionary absence of a statutory statement on the right to bear arms (aside from militia duty) was due to the lack of a political importance for the concept: It is difficult to locate a grievance in early colonial history that would necessitate the political protection of a right to bear arms. This, of course, does nothing to deny the possibility that a popular belief in the right to bear arms, for even purely personal reasons, did not exist. To say that it did or did not, however, would be mere conjecture at this point.

The argument thus far has presented only the following: First, English Common Law in theory and practice admits that the keeping and bearing of arms is regulatable but that nothing in colonial statutes denies this. Second, arms were in practice much more a general part of life in the colonies. Third, the militias were much more broadly inclusive of the "people" than in England. And fourth, there is no evidence that the keeping and bearing of arms is given a constitutional meaning different from that existing in English law.

## The Revolutionary Period

The bearing of arms begins to have strong political importance in the Colonies during the latter half of the Eighteenth Century. But the political furor over guns was not linked to class antagonisms;[22] and it was less a matter of individual right than it was a reaction to the excesses of standing armies and the disarming of Colonial militias.[23] The basic political issue was not the guarantee of an absolute right to bear arms, but legal recognition of the Colonial preference for militias over standing armies, for "the true strength and safety of every commonwealth or limited monarchy is the bravery of its free holders, its militia."[24]

The assuming of military rule by the British coupled with a concerted British effort to ineffectualize Colonial militia resistence provided ample material for revolutionary writers. The innumerable resolves, statements, and declarations seldom failed to mention the sinister activities of the British standing army or the attempts to disarm the militia.[25] In 1774 one of the Suffolk Resolves castigated General Gage for seizing militia gun powder. The tradition of importance which had grown around militias during the hundred years prior to 1774 was underscored at Lexington and Concord as General Gage's precipitous attempt to destroy militia arms at Concord in 1775 led to farmers shooting at red coats to protect the collective supplies of the militia.

In all of the political grievances of the colonists, however, there is no record that the complaints included reference to a right to bear arms for private reasons. It was not the disarming of individuals per se which precipitated colonial insecurities, but it was the disarming of the people as the militia.

The actions at Lexington and Concord seem to indicate that the issue of arms-bearing was certainly in the forefront of the catalogue of colonial grievances. Although there is no doubt that the issue was inflammatory, its omission from the list of complaints found in the Declaration of Independence casts some doubt that its importance was on a par with issues of taxation or cruel and unusual punishment. But whatever its importance relative to other issues, there is no denying the issue of arms elicited considerable debate. The debate, however, was only as it related to military excesses.

> Uppermost in the minds of the colonists was a fear of military rule, the two prime manifestations of which were the beliefs that (1) standing armies were acceptable only under the most stringent control of the civil authority and only under extraordinary circumstances, and that (2) the militia was the proper instrument in a free society to provide for the defense and safety of the individual states. Apparently, no grievance leading or contributing to the Revolution involved the disarming of an individual, and no evidence shows that either the populace or the revolutionary leaders conceived any individual right to bear arms as having been violated by British colonial policy. The battles of Lexington and Concord were not engendered by British intentions to disarm a single man, but rather their move to disarm the militia.[26]

As it is important to note that the early period of colonial America is marked in part by a heightened reliance on individual initiative for self-protection, it is equally important that the latter half of the period be described in terms of an increasing awareness of the importance of the militia. Herein lies the beginning of a confusion over what the right to keep and bear arms prescribes. Prior to 1789 do American traditions support an inviolable right to the personal possession of arms, or does the personal possession of arms only relate to a military obligation based on the dictum that a "commonwealth or limited monarchy" may only remain free as its citizens comprise the main military force? The overwhelming weight of material in the revolutionary period supports the collective meaning of the "right." The principle is most apparent in some of the early state constitutions. In North Carolina, for example, the 1776 constitution specifies

> That the people have a right to bear arms, for the defense of the State; and as standing armies, in time of peace, are dangerous to liberty, they ought not to be kept up; and that the military should be kept under strict subordination to, and governed by the civil power.[27]

The key ideas are "for the defense of the State" and the references to the military, for they indicate the overriding attachment of the concept of arms bearing to military matters. These concepts are also recorded in the 1776 Declaration of Rights in Virginia, for the only reference to the people having arms is for militia duty:

> That a well-regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defence of a free State; that standing armies, in time of peace, should be avoided, as dangerous to liberty; and that in all cases the military should be under strict subordination to, and governed by, the civil power.[28] [Emphasis Added.]

There are some notable exceptions to this general view, however. The early enumeration of rights in Pennsylvania and Vermont support not only a collective bearing of arms but an individual one as well:

> Pennsylvania: That the people have a right to bear arms for the defence of themselves and the state; and as standing armies in the time of peace are dangerous to liberty, they ought not to be kept up; And that the military should be kept under strict subordination to, and governed by, the civil power.[29] [Emphasis Added.]

> Vermont: That the people have a right to bear arms for the defence of themselves and the State; and, as standing armies, in the time of peace, are dangerous to liberty, they ought not to be kept up; and that the military should be kept under strict subordination to, and governed by, the civil power.[30] [Emphasis Added.]

The effect of these two provisions is to give a new world statutory credence to the right to bear arms for personal defense. It is particularly interesting in view of the fact that the Pennsylvania Charter of Privileges, "which continued in force from 1701 until 1776 and was the most articulate declaration of rights of man laid down prior to the Revolution," omitted mention of such a right.[31] The inclusion of an independent right in Pennsylvania can probably be attributed to the fact that radical factions were in control of the Pennsylvania drafting convention; on the whole, the document is much more radical than the

Virginia declaration.[32] In the state constitution making immediately following the Virginia and Pennsylvania conventions, however, the rest of the states, with the exception of Vermont, either neglected the issue of arms and militias or followed the Virginia preference for a collective construction. Vermont's departure is partially the result of the influence of Dr. Young (one of the "radicals" who had drawn up the Pennsylvania constitution), and partially because the Vermont convention was also more disposed to radical ventures.[33] For example, Vermont apparently intended to abolish slavery and indentured servitude altogether, a position quite radical for the period. But the overriding tenor of the post-Pennsylvania convention period was to support only the right to keep arms for the common defense and further to place such rights in articles dealing broadly with the issue of the military:

> Massachusetts, 1780: The people have a right to keep and to bear arms for the common defence. And as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and the military power shall always be held in an exact subordination to the civil authority and be governed by it.[34]

The predominate mood in these early constitutions, and the one later reflected in the Second Amendment, is that collective defense implies something more than a loosely organized group of private citizens. Indeed, phrases such as "well-regulated," and "under exact subordination to, and governed by, the civil power" meant to

comvey the restricted nature of the collective bearing of arms. In 1833 Justice Story queries: ". . . how is it practicable to keep a people duly armed without some organization, it is difficult to see."[35] Granted, the force of Story's lament is pitched toward a declining interest in militia duty, but the implicit meaning is also clear--militias require not only an armed citizenry, but regulations of the ways in which those arms should be used. And in the words of another observer:

> To quote Bishops Statutory Crimes, section 793: 'In reason the keeping and bearing of arms has reference to war and possibly also to insurrections where the forms of war are so far as possibly observed.' The phrase itself, 'to bear arms,' indicates as much. The single individual or the unorganized crowd, in carrying weapons, is not spoken of or thought of as 'bearing arms.' The use of the phrase suggests ideas of a military nature.[36]

## The Constitution and the Bill of Rights

In the deliberations of the Philadelphia Convention, there is no record of any proposal recognizing an individual right to possess weapons.[37] George Mason's unsuccessful attempt to include language identifying the militia as the recognized guardian against the excesses of standing armies is the closest the Convention appears to have come to the issue.[38] For most of the convention the delegates avoided the general issue of a Bill of Rights; "there apparently was general agreement that the new national government would not infringe the state bills of rights."[39] Following the Convention, one of the Federalist

arguments was that no bill of rights was needed as rights were already protected under state constitutions. The Convention had previously seemed disposed toward accepting this argument and, along with it, the state preferences for the generally collective meaning described in the previous section. This is not surprising as the Convention was more concerned with creating an operational government and enumerating powers than in listing rights. Not only was Mason's proposal for a prefatory bill of rights rejected, but many of the later piecemeal attempts to include statements of rights also met with rebuff.[40]

Nevertheless, as the frame of national powers began to take shape in the Convention, Pickney, Gerry, Mason and Randolph became the leading spokesmen against the failure to include a bill of rights. The exclusion erupted into frenzied anti-federalist activity both during and after the Convention with George Mason's "Objections to the Proposed Federal Constitution" becoming the chief rallying cry over the issue of a bill of rights. But there is no mention in Mason's catalogue of Philadelphia omissions of the need to secure an individual right to arms. Instead, the only relevant referense is that, "there is no declaration of any kind. . . . against the dangers of standing armies in time of peace."[41] It seems that Mason, the great advocate of a bill of rights, saw militias and standing armies as the chief issues, not whether or not individuals should possess arms.[42]

The weight of anti-federalist arguments (combined with the state practice of including a bill of rights) seriously threatened passage of the Constitution. From late 1787 through 1788 the controversy boiled during the ratification debates of the several states. Delaware gave first and unanimous approval to the proposed constitution, apparently with little or no debate. Pennsylvania, the second to ratify, gave no official recognition to the anti-federalist call for a bill of rights but anti-federalist opposition was strong and produced a public call outside the Convention for a bill of rights in amendatory form. "Robert Whitehill, William Findley, and John Smilie, all from the western part of the state . . . were outspoken champions of the anti-federalist cause."[43] Meeting at Harrisburg, the anti-federalists proposed a number of amendments including:

> That the people have a right to bear arms for the defense of themselves, their state, or the United States, and for killing game, and no law shall be enacted for disarming the people except for crimes committed or in a case of real danger of public injury from individuals, and standing armies shall not be kept up in time of peace, and the military shall be subordinate to the civil power.[44]

There is a clear intent here, and consistent with the earlier Pennsylvania Constitution, to declare a personal right to possess arms. Along with the reaffirmation of an individual right for purposes of self-defense, we note the first instance of a right to hunt, probably owing to the western-frontier character of much of Pennsylvania.

New Jersey and Georgia followed Pennsylvania in ratifying the Constitution: in each there was less debate and the vote was unanimous. Connecticut ratified the Constitution with no call for a bill of rights. "The meager records of the Connecticut Convention reveal no objections over the omission of a bill of rights in a state which had more than a hundred years of experience with written guarantees for personal liberty."[45]

Massachusetts became the first state to recommend the amendatory adoption of a bill of rights. None of the Massachusetts nine proposals, however, contains a right to bear arms, collectively or individually.[46] During the Convention, Samuel Adams did propose an amendment smacking of an individual right, but later voted against it himself.[47] Maryland approved the Constitution without formal amendment, but a committee recommended later that 13 proposals be considered by the first Congress; none of them dealt with a collective or an individual right to arms. South Carolina ratified the Constitution while proposing some amendments, none of which were related to the question of arms. New Hampshire proposed twelve amendments, seven of which are now found in the first Ten Amendments to the Constitution. The Twelfth proposed amendment stipulated, "that Congress shall never disarm any citizen except such as are or have been in actual rebellion."[48] There is every reason to believe an individual right to arms is being asserted here, but obviously not one which can

countenance or support armed revolution: Bearing arms is for the protection of oneself against nature and other men or in defending the nation against internal or external threats.

It is likely Virginia's ratification, with proposed amendments, had the most profound effect on the nature of the first Ten Amendments to the Constitution. "Apart from the political generalities set forth in the first seven articles, and the Tenth and Twelfth every specific provision in the Virginia proposals later found a place in the Federal Constitution, except the one allowing conscientious objectors to avoid being armed if they hired substitutes."[49]

> Seventeenth, That the people have a right to keep and bear arms; that a well regulated Militia composed of the body of the people trained to arms is the proper, natural and safe defence of a free State. That standing armies in time of peace are dangerous to liberty, and therefore ought to be avoided, as far as the circumstances and protection of the Community will admit; and that in all cases the military should be under strict subordination to and governed by the civil power.
>
> Nineteenth, That any person religiously scrupulous of bearing arms ought to be exempted upon payment of an equivalent to employ another to bear arms in his stead.[50]

There is ample evidence that the Virginia debates over possessing arms were in one way or another always linked to militias. The bone of contention in the Virginia Ratification Convention was the belief that the Federal government possessed a residual power under the proposed Constitution to disarm state militias. The states

may have been disposed to allow the Federal government expanded military discretion, but they were not willing to surrender all of their own potential for raising military forces. There is no evidence to support the claim that the Virginia Amendments intended to directly protect a citizen's right to bear arms, but only indirectly to prevent the disarming of state militias. In the first place, historians are in general agreement that the term "bearing arms" is a military concept. Second, the first sentence of Proposition Seventeen explicitly places the bearing of arms in a military context. Third, the debates in the Ratification Convention support a clear intent to protect the viability of state militias. Feller and Gotting have summarized the relevant portions of that debate as follows:

> The militia clause of the Constitution proved to be the subject of extensive debate. In response to entreaty to state his specific objections to the Constitution, Patrick Henry expressed inter alia the alarm among the Anti-Federalists that 'you (the state legislature) are not to have the right of having arms in your own defense.' Mr. Less of Westmoreland, a member of the Federalist camp, rose next to reply: 'I cannot understand the implication of the honorable gentleman, that because Congress may arm the militia, the states cannot do it . . . The states, are, by no part of the plan before you, precluded from arming and disciplining the militia, should Congress neglect it.'
>
> This exchange illustrates the precise point of contention between . . . Federalist and Anti-Federalist on the need for a bill of rights. The former declared that, since the Constitution established government of enumerated powers, no bill of rights was necessary. . . . Anti-Federalists, however, argued that many powers could be implied from the enumerated ones and, therefore, a bill of rights was required to preserve certain liberties.

> Nowhere does it appear that the delegates to the Virginia Convention were concerned with a supposed individual right to carry weapons.[51]

The New York ratification included a grab bag of proposed amendments but none of these which had not already been proposed by previous state ratifying conventions were ultimately adopted in the Federal Bill of Rights.[52] The package did include, however, the following:

> That the People have a right to keep and bear Arms; that a well regulated militia, including the body of the People capable of bearing arms, is the proper, natural and safe defense of a free State;[53] [Emphasis Added.]

Particular attention should be placed on the phrase "the people capable of bearing arms," for the implication is that only some people may possess arms under provisions of this amendment. Specifically, it is only that portion of the populace capable of military service who would seem to have a right to bear arms. The capitalization of the word "People" in the first clause should also lead to viewing the word in its collective and political sense. North Carolina recommended an arms provision which was word-for-word, the same as Virginia's.

## Madison Proposes

The general strategy in the state ratifying conventions had been to accept the Constitution as written, but with the clear understanding that recommended amendments would be submitted to the first Congress for consideration. It is generally considered that Madison was the principal author of the first Ten Amendments to the Constitution.

Madison's agreement to author the amendments probably stems from the compromise in Virginia, which resulted in the acceptance of the Constitution, but only after the Federalists agreed to push for the proposed Virginia amendments.[54] In addition, Madison felt honor-bound to a campaign pledge to support a bill of rights.[55] More importantly, Madison was concerned that intemperant proposals could ruin the fabric of the new Constitution and thus wished to lead the movement for a bill of rights and squash attempts at altering the basic structure of the document. As Madison himself writes:

> The friends of the Constitution. . . . wish the revisal to be carried no further than to supply additional guards for liberty, without abridging the sum of power transferred by the States to the general Government or altering previous to trial the particular structure of the latter.[56]

On June 8, 1789, Madison offered his package of amendments and they included an arms provision remarkably similar to sections 17 and 19 of the Virginia Ratification Convention's proposed amendments.

> The right of the people to keep and bear arms shall not be infringed; a well armed and well regulated militia being the best security of a free country; but no person religiously scrupulous of bearing arms shall be compelled to render military service in person.[57]

The language of this amendment presents us with an interpretative conundrum: does the second phrase establish an individual right to possess arms, or must that phrase be set in the meaning of the entire amendment and interpreted to provide a collective-militia right only? Literal

interpretation will not provide an adequate answer for there is no way of determining which of the above positions is necessarily correct. It is evident, however, that Madisons' language is very close to that of the Virginia proposals, and the analysis of the Virginia wording, which indicated a collective meaning, can be extended to an analysis of Madison's wording. More importantly, Madisons' last clause clearly places the balance of meaning on the side of relating the bearing of arms to the need of maintaining militias. The right of the people to bear arms can be seen as a concomitant to a "fundamental maxim of free government": the militia is the best defense for a free country.[58] There is no evidence from Madison's pen, or from preceeding debate in Virginia, that anything but preventing the disarming of militias was the issue at hand. In Congress, Anti-Federalists did not clearly comment on the existence of an individual right to possess arms.

Madison's proposal was altered during House and Senate debates. There is no record of debate in the Senate; the House Journal shows debate was confined to the conscientious objector clause. The principal issues in the House debate are represented below in the remarks of Gerry and Benson:

> Gerry: This declaration of rights, I take it, is intended to secure the people against the maladministration of the government; if we would suppose that, in all cases, the rights of the people would be attended to, the occasion for guards of this kind would be removed. Now, I am

> apprehensive, sir, that this clause would give an opportunity to the people in power to destroy the constitution itself. They can declare who are those religiously scrupulous, and prevent them from bearing arms.
>
> What, sir, is the use of a militia? It is to prevent the establishment of a standing army, the bane of liberty. Now, it must be evident, that, under this provision, together with their other powers, Congress could take such measures with respect to a militia, as to make a standing army necessary.
>
> . . . Now, if we give a discretionary power to exclude those from militia duty who have religious scruples, we may as well make no provisions on this head. For this reason, he wished the words to be altered so as to be confined to persons belonging to a religious sect scrupulous of bearing arms.
>
> Benson: Mr. Benson moved to have the words 'but no person religiously scrupulous shall be compelled to bear arms,' struck out. He would always leave it to the benevolence of the Legislature, for, modify it as you please, it will be impossible to express it in such a manner as to clear it from ambiguity.[59]

The House debate calls no attention to a supposed natural right to bear arms individually, but centers on the issue of whether, on religious grounds, anyone may object to the bearing of arms in the militia. Nor is there anything in the debate in the House to suggest the accepted usage of the phrase "to bear arms" as a military one was altered in any way. The House terminated its own debate on the Amendments, after a short time, and referred the fate of the Amendments to a select committee of eleven to hammer out final language. The committee made two important changes in Madison's wording concerning the soon-to-become Second Amendment. First, it reversed the order of the first two phrases giving, to some, a much stronger

militia-relatedness to the right to bear arms. Second, it defined the militia as "composed of the body of the people," making it clear militias were not simply individuals, but the corporate armed strength of the citizenry. The committee version read:

> A well regulated militia, composed of the body of the people, being the best security of a free State, the right of the people to keep and bear arms shall not be infringed, but no person religiously scrupulous shall be compelled to bear arms.[60]

Senate action on the arms amendment produced the final wording for what was to become the Second Amendment. Two changes from the House version were adopted. First, the conscientious-objector clause was dropped and although there is no way of knowing the reason, it is possible an argument similar to Benson's was put forth in the Senate. If this was the case, the dropping of the clause was done for linguistic reasons: there being no way to guarantee the exclusion without offering the Federal government a means of subverting state maintenance of militias. The Senate also dropped reference to the militia as "composed of the body of the people," and we are presented no reason why. Feller and Gotting have referred to the Senate changes as follows:

> The Senate wording was again changed to the form which was finally adopted as the second amendment. If the various alterations of Madison's original offering were the result of anything other than stylistic considerations, there is no record of it. The central idea, that the people of the states had a right to be protected against the devitalizing of the state militia, remained intact. In short, the right to keep and bear arms is the right to maintain an effective militia.[61]

## Judicial Interpretation

The continuous interpretation given to Constitutional provisions by the judicial system has not bypassed the Second Amendment, although the number of relevant cases at the Federal level is small. The Supreme Court has had only a few opportunities to rule directly on the applicability of the Second Amendment.[62] U.S. v Cruikshank (1876) presented the Court with an opportunity to make its first direct interpretation of the Second Amendment.[63] In the opinion of the Court the Second Amendment guaranteed no absolute personal or collective right to bear arms:

> The second amendment declares that [the right]. . . . shall not be infringed; but this, as has been seen, means no more than that it shall not be infringed by Congress. This is one of the amendments that has no other effect than to restrict the powers of the national government. . . .[64]

The effect of the Cruikshank opinion is to restrict the powers of the Federal Government alone, leaving, we may presume, no restraint on state regulation of arms. The decision is consistent with other Supreme Court rulings of the time, most notably Hurtaldo v California in 1884.[65] This decision, involving questions of due process, qualified other guarantees in the Bill of Rights by restricting the applicability of the Bill of Rights only to actions of the Federal government. The whole process of generally restricting the Bill of Rights to Federal activities led Justice Black, in 1940, to suggest "the states had been given leave to violate with impunity" the whole range of personal rights and immunities guaranteed under the Bill

of Rights.[66] The issue here, however, is not whether the applicability of the Bill of Rights should be so restricted by the Court, but that the Cruikshank decision has not been over-ruled by the Court. The Second Amendment remains today restricted to Congressional and Presidential actions, even though the Court has, in the last thirty years, extended the protections of many of the other Ten Amendments to include state activity.[67]

In Presser v Illinois (1886) the Court upheld the meaning of the Cruikshank decision, but also spoke more directly to the militia-relatedness of the Second Amendment.[68] The bearing of arms in respect of militia duty was held not to be a "right" guaranteed to private militia organizations. An Illinois statute forbidding "bodies of men to associate together as military organizations, or to drill or parade with arms in cities and towns unless authorized by law"[69] was, therefore, held to be constitutional. The meaning of the decision is to strike out the notion that private groups are afforded the right to bear arms under protections of the Second Amendment. Through what may be obiter dicta, the Court seems to go even further and suggest the Amendment affords protections only to those who qualify for militia service:

> It is undoubtedly true that all citizens capable of bearing arms constitute the reserved military force or reserve militia of the United States as well as of the States, and, in view of this prerogative of the general government, as well as of its general powers, the States cannot, even laying aside the constitutional proviso in question

> out of view, prohibit the people from keeping and bearing arms, so as to deprive the United States of their rightful resource for maintaining the public security, and disable the people from performing their duty to the general government.[70]

The Court never makes clear in the Presser decision, however, whether the Second Amendment simply guarantees a conditional or class right to bear arms: namely, only those capable of military service may bear arms. What appears more important in the Presser decision is that states cannot infringe on the powers of the National government in maintaining a national militia. The meaning is notably the reverse of that in the Cruikshank decision, for, whereas there the Federal government is prohibited from disarming citizens, the Presser decision makes apparent that the states are also restricted as they may not interfere with national prerogative in maintaining an armed citizenry for the national defense. It is worthy of note that the Presser decision refers only to the concept of a right to arms as it relates to the necessity of maintaining a militia.

Two subsequent cases heard before the turn of the century added weight to the view that the Second Amendment refers only to the National government. In Miller v Texas (1894), the Court upheld the authority of the state to prohibit the carrying of dangerous weapons.[71] In Robertson v Baldwin (1897), the Court upheld a similar provision.[72] Some have held, however, that the Robertson view on arms was dictum and, therefore, not truly controlling.[73]

In U.S. v Miller (1939) the Court first squarely met the issue of Federal regulations of firearms.[74] The effect of this decision was to qualify the rather broad prohibition against Federal interference first stated in Cruikshank. The Miller decision dealt with the National Firearms Act of 1934. Among other things, it outlawed the interstate transportation of unregistered shotguns whose barrel lengths were under 18 inches. The nub of the Miller decision was:

> In the absence of any evidence tending to show that possession or use of a 'shotgun having a barrel length of less than eighteen inches in length' at this time has some reasonable relationship to the preservation of efficiency of a well regulated militia, we cannot say that the Second Amendment guarantees the right to keep and bear such an instrument. Certainly it is not within judicial notice that this weapon is any part of the ordinary military equipment or that its use could contribute to the common defense.[75]

This opinion is of insurmountable importance for it indicates the first explicit High Court recognition of the principle that the Second Amendment protects a collective right only. Importantly, it sets the principle that Federal regulation may restrict the bearing and the keeping of arms not related to militia service. Therefore, the individual right to keep and bear arms, not so related, is restrictable. Being consistent with the "Ashwander Rules," however, the Court did not explicitly enumerate the collective principle alluded to above. Rather, as Feller and Gotting point out, "it preferred to dispose of the case on what was essentially a matter of proof, adopting

the familiar qualification that the right covered only weapons ordinarily used in civilized warfare."[76] The logic is clear, however, that the court implicitly had in mind the principal of a collective right. And there is explicit lower court approval for the collective interpretation, for in U.S. v Adams (1935) the bearing of arms was held to be related "to the collective body and not to individual rights."[77] This lower court ruling preceeded the Miller case by four years, and yet was not over-ruled by that decision.

The Miller case, far from settling the issue of the right to bear arms, has left a great residue of confusion: what may be regulated and in what manner? Although arms may be required to have a "reasonable relationship to the preservation of a well regulated militia,"[78] in practice, modern warfare can be shown to exclude few if any arms from its warehouse of efficient devices. The logical extension of the Miller Case is that tanks, bazookas, machine guns and anti-personnel devices are not regulable by the Federal government. Extending this line of argument by way of the Presser decision, we might also conclude that states are also prohibited from such interference. And in carrying the argument to its most extreme but pernicious bounds, atomic bombs are also a matter of private weaponry.

It is doubtful that the Court, the National Rifle Association, or any other group would consciously advocate

pushing the logic of the Miller argument to its extreme. Additionally, however, the argument can be posed that the Miller argument excludes any arm from private ownership and maintenance:

> Arguable, the Court's use of the phrase 'reasonable relationship to the preservation of efficiency of a well regulated militia' justifies a more circumspect implication, that at the present time when the state militia is armed through the state government, no privately owned weapons bear a reasonable relationship to the maintenance of the militia's effectiveness.[79]

This argument consciously recognizes that practically, if not in theory as well, militias are no longer composed of farmers with home-grown flint locks but are professional, semi-standing armies, supplied with a sophisticated weaponry so costly that only the Federal government can afford supplying much of it.

Two Circuit Court cases subsequent to the Miller decision have shed some light on these issues. In 1942 the First Circuit Court in Cases v United States called close attention to the argument that extensions of the Miller case could be used to put down nearly any regulaton whatsoever:

> Apparently, then, under the Second Amendment, the federal government can limit the keeping and bearing of arms by a single individual as well as by a group of individuals, but it cannot prohibit the possession or use of any weapon which has any reasonable relationship to the preservation or efficiency of a well-regulated militia. However, we do not feel that the Supreme Court in this case was attempting to formulate a general rule applicable to all cases. The rule which it laid down was adequate to dispose of the case before it and that we think was as far as the Supreme Court intended to go. At any rate the

> rule of the Miller case, if intended to be comprehensive and complete would seem to be already outdated, in spite of the fact that it was formulated only three and a half years ago, because of the well known fact that in the so called 'Commando Units' some sort of military use seems to have been found for almost any modern lethal weapon. In view of this, if the rule of the Miller case is general and complete, the result would follow that, under present day conditions, the federal government would be empowered only to regulate the possession or use of weapons such as a flintlock musket or a matchlock harquebus. . . . Considering the many variable factors bearing upon the question it seems to us impossible to formulate any general test by which to determine the limits imposed by the Second Amendment but that each case under it, like cases under the due process clause, must be decided on its own facts and the line between what is and what is not a valid federal restriction pricked out by decided cases falling on one side or the other of the line.[80]

The First Circuit Court interprets the Supreme Court as not formulating a general principle but merely settling a single case in a manner most consistent with its own rules of avoiding broad issues whenever possible. But the First Circuit Court goes on to state a qualified principle of its own even after suggesting such should not be attempted:

> . . . . But to hold that the Second Amendment limits the federal government to regulations concerning only weapons which can be classed as antiques or curiosities. . . . is in effect to hold that the limitation of the Second Amendment is absolute. . . . It seems to us unlikely that the framers of the Amendment intended any such result.[81]

It is explicit in this decision that the Second Amendment does not offer an absolute protection to the keeping and bearing of arms. Aside from settling individual cases by the use of restricted arguments, the Court is not willing

to provide much of a definitional boundary as to what may be regulated and how. The Court does make clear in Cases v United States that although private possession for purposes of maintaining a militia may well be protected under some circumstances, a person having or using an arm for reasons primarily unrelated to militia efficiency may come under legislative restriction. The Circuit Court not only applies the question of whether the arm itself is manifestly related to militia efficiency, but asks as well whether the primary purpose of possessing such a weapon is related to the militia:

> . . . there is no evidence that the appellant was or ever had been a member of any military organization or that his use of the weapon under the circumstances disclosed was in preparation for a military career. In fact, the only inference possible is that the appellant at the time charged in the indictment was in possession of, transporting, and using the firearm and ammunition purely and simply on a frolic of his own and without any thought or intention of contributing to the efficiency of the well regulated militia which the Second Amendment was designed to foster as necessary to the security of a free state. We are of the view that, as applied to the appellant, the Federal Firearms Act does not conflict with the Second Amendment to the Constitution of the United States.[82]

The Third Circuit Court in United States v Tot (1942) added another important view to the meaning of the Second Amendment.[83] Speaking specifically to the issue of individual versus collective rights, the Court cites historical data to support its view that the Second Amendment was not adopted with individual rights in mind. The Court additionally holds no absolute right to bear arms is found in common law:

> It is abundantly clear both from the discussion of this amendment contemporanious with its proposal and adoption and those of learned writers since this amendment, unlike those providing for protection of free speech and freedom of religion, was not adopted with individual rights in mind, but as a protection for the States in the maintenance of their militia organizations against possible encroachments by the federal power. . . . The almost uniform course of decision in this country, where provisions similar in language are found in many of the State Constitutions, bears out this concept of the constitutional guarantee. . . .
>
> But further, the same result is definitely indicated on a broader ground and on this we shoud prefer to rest the matter. Weapon bearing was never treated as anything like an absolute right by the common law. It was regulated by statute as to time and place as far back as the Statute of Northhampton in 1328 and on many occasions since. The decisions under State Constitutions show the upholding of regulations prohibiting the carrying of concealed weapons, prohibiting persons from going armed in certain public places and other restrictions, in the nature of police regulations, but which do not go so far as substantially to interfere with the public interest protected by the constitutional mandates.[84]

In summarizing Federal Court decisions, we may note that the Supreme Court has generally upheld regulation of firearms, but for reasons which avoid the key constitutional issues. Circuit and district court opinions have also upheld the regulation, but generally giving more explicit treatment to these constitutional issues, Taken as a whole, the Federal Courts have: upheld numerous regulations as constitutional; expressed preference for a collective rather than an individual view of the Second Amendment; and interpreted historical antecedents as circumscribing the intended meaning of the Second Amendment.

State Courts and Constitutions

Historically, confusion over the right to bear arms is manifested in state constitutions. It is still present. It has already been noted that two state constitutions prior to 1789 (Pennsylvania and Vermont) had provisions authorizing an individual interpretation to the right to bear arms. Yet for the one hundred years following the adoption of the United States Constitution, the writing of state constitutions included many more direct references to an individual right to arms.

From 1789 to 1889 twenty-four states (or 65%) had explicit provisions in their constitutions on the bearing of arms.[85] Roughly half subscribed to a collective right similar to provisions in the United States Constitution, with the other half following Pennsylvania's lead in declaring an individual right to arms as well. The individual right was loosely stated as "the right of the people to bear arms in defense of themselves [Emphasis Added] and the state."[86] Although no final meaning can be given to the word "themselves," the presumption can be made that it was included to reflect a right to arms aside from militia duty. Two of these states, however, qualified the implied individual right by allowing the legislature to prohibit the carrying of concealed weapons.[87]

Virtually all sections of the country are included in the list of states subscribing to a non-militia related right, although in nearly every instance the individual

right was first written into the state's constitution at a time when the state had large unsettled regions or was generally sparsely populated. In these states the explicit inclusion of the right to bear arms for self-defense probably reflected the environmental necessities of the frontier.[88] Later, as constitutional revisions took place in many of these states there was little change in arms provisions even though many of them had lost their frontier flavor. It is likely this is due to some reticence to alter a bill of rights as previously written. Thus, early provisions guaranteeing an apparent individual right to bear arms were kept.

In the one hundred years following the drafting of the United States Constitution, approximately one-third of the states adopted language similar to the United States Constitution and excluded explicit mention of an individual right to bear arms. Georgia and North Carolina adopted the language most closely in stating that, "a well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed."[89] The others adopted language less precisely in line with the National Document, but clearly failing to mention explicitly a right to arms aside from purposes for the common defense. Wording in the 1857 Constitution of Kansas is representative of this last group:

That the citizens of this state shall have a right to keep and bear arms for their common defense.[90]

In nearly all the state constitutions having arms provisions there is a fairly consistent linguistic pattern closely associating the bearing of arms with provisions on standing armies and militias. This format either includes military references in the same article with the right to bear arms or places the article on bearing arms in close proximity to the group of articles having to do with the military. Examples of both are reproduced below:

North Carolina: A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed; and as standing armies in time of peace are dangerous to liberty, they ought not to be kept up, and the military should be kept under strict subordination to and governed by the civil power.[91]

Tennessee: Section 24 That the sure and certain defence of a free people is a well-regulated militia; and as standing armies, in time of peace, are dangerous to freedom, they ought to be avoided, as far as the circumstances and safety of the community will admit, and that in all cases the military shall be in strict subordination to the civil authority.

Section 25 That no citizen in this State, except such as are employed in the Army of the United States or militia in actual service, shall be subject to corporal punishment under martial law.

Section 26 That the freemen of this State have a right to keep and bear arms for their common defence.

Section 27 That no soldier shall in time of peace be quartered in any house without consent of the owner, nor in time of war but in a manner prescribed be law.

> Section 28 That no citizen of this State shall be compelled to bear arms, provided he will pay an equivalent, to be ascertained by law.[92]

By way of these examples the feeling, if not the proof, is that the concept of a right to bear arms was closely associated with the idea of militia duty and with the problems of standing armies. Such a feeling may be mere tautology, however, for arms are very generally linked to military matters in the main. The simple set of points to be made is that only 65 per cent of the states had amendments guaranteeing some right to arms. Of these, half included an individual right to bear arms. With the exception of Rhode Island, Colorado and Missouri, all of these states linked the concept of arms-bearing with other military matters.

The state constitutions <u>today</u> closely resemble the pattern outlined above for the first one hundred years following adoption of the United States Constitution. Thirty-five of the fifty states have Second Amendment type articles in their constitutions, while twenty of the thirty-five make reference to a right-to-arms aside from providing for the militia.[93] In Pennsylvania, for example, "the right of citizens to bear arms in defense of <u>themselves</u> [Emphasis Added.] and the state shall not be denied."[94] And in Connecticut, "Every citizen has a right to bear arms in defense of himself and the state."[95] From 1890 to the present twelve states added provisions to their constitutions dealing with arms, and one state, California, dropped

its arms provision. For the most part the additions are the product of new states joining the Union. Seven of the twelve opted to include a personal right to arms, reflecting an increasing trend away from the wording of the United States Constitution, as today we may note, 60 per cent of the states with arms provisions in their constitutions identify a personal right.

But there is an important qualification to be noted in regard to this trend, as eleven of the twenty states providing a personal right allow that the state legislatures may variously restrict the general right to keep and bear arms. Missouri, for example, allows that this right "shall not justify the carrying of concealed weapons."[96] Florida provides that "the legislature may prescribe the manner in which they [arms] may be borne."[97] Washington precludes the authorization of "individuals or corporations to organize, maintain or employ an armed body of men."[98] Only ten states provide for an individual right to arms in generally unrestricted language. Wyoming and South Dakota, of the states gaining admission since 1890, are included in this last group.

A general pattern in state constitutions may be seen as follows: first, roughly half of the states provide for a right to arms for purposes of self-defense, but over half of these qualify the general nature of that right and specifically allow the state legislature to restrict the keeping and bearing of arms; the inclusion of

a personal right to arms is much more characteristic of state constitutions in the second one hundred years of the nation's history than in its first, although the constitutional enumeration of restrictions on that right are also more characteristic of the second hundred years. Sixty per cent of the state constitutions either omit reference to a right to bear arms or follow closely the wording of the United States Constitution as it relates to the militia and the common defense. Third, there is no regional pattern apparent except that the Rocky Mountain states and the South West, as well as most of the states carved out of the territory won during the War of 1812, have adopted language specifying an individual right to arms. There may be a note of the frontier in this last point, as all of these states were sparsely populated and wilderness in nature when the personal right to arms was first placed in their constitutions. This does not explain, however, why other such "frontier" states either followed the wording of the United States Constitution or neglected to provide a right to arms at all. Last, the stylistic format of linking arms-bearing to other military issues continued in force during the second hundred years of the Republic.

An examination of current statutory provisions of the states dealing with firearms clarifies these constitutional questions. Here there is clear evidence that the right to bear arms is nowhere considered an absolute

and unregulable right, constitutionally guaranteed. Congressman John Dingell, of Michigan, speaking before the Senate Juvenile Delinquency Sub-Committee, estimated that "there are over 20,000 laws governing the sale, distribution and use of firearms . . ."[99] All are familiar with local laws prohibiting the carrying and use of firearms within city limits and there are a variety of other laws regulating firearm use. What is more important, however, is that all but five states prohibit possession of firearms (specifically handguns) by certain categories of people.[100] Twenty states now require purchasers of handguns to fill out applications prior to purchase. "All but two of these states' screening system are permissive in that they exclude individuals from owning guns only if the state can give a reason, such as a criminal record or mental incompetency."[101]

Handguns and concealable weapons come under much more restrictive sanction than do shotguns and rifles. In general this is not surprising in view of the fact that at least ten state constitutions specifically allow for regulation of such firearms. What is surprising is that thirty-five states restrict possession of handguns without specific language in their constitutions authorizing such legislation. Only eleven states prohibit certain classes of people from possessing shotguns or rifles and of these eleven only seven require applications be filled out prior to purchase.[102]

There is no consistent policy among the states in the registration of firearms except for handguns. Generally the registration or application which does precede purchase of a handgun attempts to eliminate only the most undesirable or unstable elements from having handguns; there is little or no attempt to restrict possession further. Massachusetts and New York are the only states having registration laws which place the burden of proof on the individual, requiring that he show proper reason why he should be issued a gun permit. The laws in both states, however, apply only to handguns and concealable weapons. The registration of rifles and shotguns is not commonplace.

State courts have generally upheld the constitutionality of various legislative acts denying both use and possession of guns (primarily handguns). The dramatic exception is Bliss v Commonwealth (1822), where the Supreme Court of Kentucky ruled the right to bear arms was not to be abridged, even under the general police powers of the state.[103] The decision served as a catalyst for a constitutional amendment specifically authorizing the legislature to prohibit the carrying of concealed weapons.

Even given the general position that state courts have upheld various legislative restrictions, "a sizable number of state decisions have expressly acceded to the view or have assumed that individuals inherently possess

the right [to arms], although subject to certain restrictions."[104] Generally these restrictions have been authorized in respect of handguns, and other weapons, such as brass knuckles, or in restricting possession to "desirable" elements.

Although the pattern of most state supreme court decisions seems to follow the above in alluding to a confused right to keep and bear arms, many courts, in the same breath, have provided opinions, the effect of which are to greatly widen the discretionary powers of state legislatures. The Supreme Court of Kansas, for example, permits the State Legislature to prohibit "the promiscuous carrying of deadly weapons."[105] In Idaho, the legislature may not prohibit a citizen from "bearing arms," but it may "regulate the exercise of that right" within the police powers of the State.[106] The Idaho Court places no apparent restriction on the legislature in regulating the bearing of arms. In South Carolina the legislature is empowered absolutely to prohibit the carrying of deadly weapons in order to keep the peace of society.[107] The New York Supreme Court (Appellate Division), ruling on the Sullivan Act which outlaws possession of handguns except by permit, upheld as an appropriate exercise of the police power of the state, the registration of handguns.[108]

Many of the state courts have followed a logic similar to that employed by the Supreme Court and ruled that

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arms related to militia service are excluded from regulation. In Texas, arms free from regulation are those "commonly kept, according to the customs of the people, and are appropriate for open and manly use in self-defense, as well as are proper for the defense of the state."[109] And in the City of Salina v Blaksley a "collective" versus an "individual" right to arms is upheld, suggesting further that the right to bear arms is a right only for a member of the state militia.[110]

A simplistic analysis of state arms legislation and related court decisions might lead to the conclusion that in the absence of sweeping Federal regulations inconsistency and diversity have reigned supreme. Although largely accurate, such a summary would be precipitous for some very important patterns are to be discovered below the immediate surface of analysis. In the first place, most state court decisions, with some exceptions, have carefully avoided reference to an unimpeachable right to bear arms. But they have also generally avoided the position that state legislatures may regulate possession and use free of restraint. The effect of this has been a tendency to severely circumscribe the impact of gun decisions by avoiding references to reincarnated "ancient precedent" and relying almost wholly on specific applications of state constitutional and statutory language.

> . . . it seems impossible to see any definable trend in the opinions of the courts. . . . About all this writer is willing to concede from this review is

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> that the various state courts--if and when called upon to determine the constitutionality of firearms legislation--will react more to the specific language of the state constitution and the data relied on by the state legislature than they will to the marshalling of ancient precedents.[111]

In this respect the numerical weight of state court decisions has favored legislative restrictions, although the arguments have varied from citing appropriate reserves of state police powers to denying a non-collective meaning to constitutional arms provisions.

Provisions in state constitutions have already been reviewed. The only remaining point of importance to be drawn is that some of them record the only recognizable right to individual possession of firearms in Anglo-American tradition. Not being traceable to any known legal tradition, their inclusion is the likely product of selective historical interpretation, as well as the consequences of gun usage in the United States: history could not be used to document a legally recorded individual right, but it might be shown to demonstrate a practical fact of life in the frontier environs. Nearly every state has gun regulations. This makes it abundantly clear that even those states whose constitutions exclude infringement of the right of individuals to keep and bear arms do not necessarily associate regulation with infringement. In practice nearly all states have admitted the keeping and bearing of arms is subject to regulations of some kind, irrespective of the language in the state constitution.

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## Some Related Issues

While the Second Amendment appears to have little practical merit in prohibiting the regulation of firearms, it is one of the curiosities of the American system that the Fifth Amendment, manifestly unrelated to the issue of guns, has been the bete noire threatening existing national arms regulations. Under Fifth Amendment provisions, the individual may not be forced to give evidence that will aid in his conviction. In January, 1968, the Supreme Court effectively limited enforcement of provisions of the National Firearms Act by extending protections of the Fifth Amendment to registration requirements in the Act.[112] Under provisions of the National Firearms Act, persons were required to register certain types of arms, such as sub-machine guns and sawed-off shotguns, if they possessed these arms contrary to provisions in the Firearms Act.

> The act outlined numerous requirements which must be met for a person to legally acquire, transport, import, or make certain firearms and criminally punished any failure with these provisions. Further, the act provided that one who possessed a firearm acquired by him in violation of these requirements must register . . . The Court reasoned that the practical effect of both the registration and unlawful possession sections were, therefore, identical and that neither section could be enforced over fifth amendment objections.[113]

The Act previously had been upheld as a constitutional exercise of the commerce and regulatory powers of the Federal government.[114] Importantly, the Haynes decision did not question powers of the National government to regulate the possession and flow of firearms through

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commerce powers. The issue was not whether arms may be regulated, nor, presumably, whether regulation could be by way of taxation. In this respect the Miller decision, which authorized regulation, was allowed to stand. Rather, the issue turned on internal statutory defects which were to require self incrimination.[115]

Is the Second Amendment outdated? The answer to this question is largely dependent on whether one views the Second Amendment as only guaranteeing the existence of the state militia forces, or whether one sees it as both supporting militias over standing armies, as well as providing the individual with an inviolable right to bear arms for personal reasons. The Second Amendment easily becomes outdated if the first view is accepted, for, the concept of militia prevalent at the time of writing the Second Amendment no longer exists in any recognizable fashion. The practice of personally arming oneself for militia service (state or Federal) is no longer acceptable as it apparently was during the Eighteenth Century. If, therefore, the private bearing of arms is authorized in respect of militia duty, and if private arms no longer constitute the weaponry of a militia, in what respect is the private possession of arms guaranteed under the Second Amendment?

If the second position is accepted, that an individual right exists independent of militia duty, an argument may be made that the Second Amendment is not

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substantially outdated. The argument may be made that although legally the militia relatedness of the Amendment has no modern application, it is legally binding in guaranteeing the remaining individual right to arms. Of course, this whole argument ignores the weight of historical evidence presented in this chapter, which admits of no individual right to arms receiving consistent support. Aside from this, however, the argument that the Second Amendment is contemporary in its application to a non-militia right ignores an important sociological fact;

> . . . bearing arms today is a very different thing from what it was in the days of the embattled farmers who withstood the British in 1775. In the urban industrial society of today a general right to bear efficient arms so as to be enabled to resist oppression by the government would mean that gangs could exercise an extra-legal rule which would defeat the whole Bill of Rights.[116]

This argument has been opposed by the forces unwilling to admit further restrictions on arms: the Second Amendment must be reinterpreted in the context of a chaotic Twentieth Century to recognize the increased importance of the Second Amendment in guaranteeing the right to self-defense in an age of proliferating civil strife.[117] In rebuttal, however, the point can be made that the indiscriminatory arming of a citizenry is likely to be as devastating as its indiscriminatory disarming. Additionally, it does not seem plausible that the Second Amendment can rightfully be interpreted to guarantee the admissibility of extra-legal action over the rule of law.

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Granted, the right of revolution and the right of self-defense have a rich tradition in Anglo-American history, even to the extent that the Magna Carta permits rebellion in the event the declarations signed by John are not kept. Several state ratifying conventions, including Virginia, New York, and North Carolina, offered amendments granting the right of the people to revolt under conditions of repression. But both Houses of the First Congress rejected these amendments and, thereby, refused to codify a right to revolution.[118] There is no reason to believe, therefore, that the Second Amendment impliedly includes a right to arms for purposes of revolt. American history may be shown to guarantee a moral and a natural right to revolt and, thus, to the securing of the means of revolt. But the inclusion of such a right in the American Constitution cannot be admitted.

## Conclusion

What ought to be evident after this perusal of history is that the issue of arms regulation is immensely complicated. The great weight of historical data precludes documenting an unregulable right to the personal possession of arms. There are innumerable examples of the uses of arms, as well as the place and manner of bearing, being regulated, proscribed and limited. With the exception of some of the state constitutions, the bearing of arms is clearly related to militia duty rather than to a natural

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right of the individual. And finally, history records a consistent approval of restricting the individual bearing of arms to protect the peace of society. The question remains, however, to decide what is reasonable regulation, given the needs of society. At what point does reasonable regulation become unwarranted infringement?

## FOOTNOTES--CHAPTER I

[1]Glendon A. Schubert, Constitutional Politics (New York: Holt, Rinehart and Winston, 1960).

[2]Arthur E. Sutherland, Constitutionalism in America: Origins and Evolution of Its Fundamental Ideas (New York: Blaisdell Publishing, 1965), p. 93. Sutherland's book is a competent introduction to the growth of constitutionalism in England and the United States. Of primary value, however, are the verbatum reproductions of charters, petitions and statutes which have become part of the "English Constitution."

[3]Edmund Burke, Reflections on the Revolution in France (New York: Liberal Arts Press, 1955).

[4]Lucilius A. Emery, "The Constitutional Right to Keep and Bear Arms," Harvard Law Review, Vol. 28 (March, 1915), p. 473.

[5]Edward III, C. 3 (1328).

[6]George D. Newton and Franklin E. Zimring, Firearms and Violence in American Life (United States Government Printing Office, 1969). See footnote 13 on page 255. This is a staff report prepared for the National Commission on the Causes and Prevention of Violence.

[7]Emery, op. cit., p. 473.

[8]I Blackstone Commentaries 409.

[9]Newton and Zimring, op. cit., p. 253.

[10]Frederic Stimson, The American Constitution (New York: Scribners, 1923), p. 73.

[11]See, for example, Nicolas V. Olds, "The Second Amendment and the Right to Keep and Bear Arms," Michigan State Bar Journal, Vol. 46 (October, 1967).

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[12]It is not at all clear from a cursory reading of English military traditions if the concept of a militia necessarily referred to only those actually enrolled in militia service, or to the people in general. In theory alone the principle of Levee en masse seems to be confirmed. In practice, however, the obligation to bear arms applied only to a few and thus there probably is no ongoing confirmation through use of a truly "people's" army. See James B. Whisker, "The Second Amendment: The Right to Keep and Bear Arms" (an unpublished dissertation at the University of Maryland) for an interesting discussion of levee en masse.

[13]I Blackstone Commentaries 143-144.

[14]Sutherland, op. cit., p. 93.

[15]I William and Mary (1689). The word "employed" refers to Catholics serving in the standing army.

[16]Ralph Rohner, "The Right to Bear Arms: A Phenomenon of Constitutional History," Catholic University Law Review, Vol. 16 (1967), p. 59.

[17]A reading of the original Colonial Charters seldom fails to present evidence that English Common Law formed the basis of law in the colonies.

[18]Robert A. Rutland, Birth of the Bill of Rights 1776-1791 (Chapel Hill: University of North Carolina Press, 1955), p. 42.

[19]Benjamin P. Poore, The Federal and State Constitutions, Colonial Charters, and other Organic Laws of the United States (Washington: United States Government Printing Office, 1877), p. 376.

[20]Even the earliest observers of the Republic's activities, De Tocqueville for example, called attention to this view.

[21]Louis Hartz, The Liberal Tradition in America (New York: Harcourt and Brace, 1955).

[22]Ibid., p. 36.

[23]Newton and Zimring, op. cit., p. 255. Also, see Peter Feller and Karl Gotting, "The Second Amendment: A Second Look," Northwestern University Law Review, Vol. 61, 1966, p. 49. Also, the grievances against England listed in the 1777 New York Constitution support this view.

[24]Ibid., p. 255n.

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[25]Peter Feller and Karl Gotting, "The Second Amendment: A Second Look," Northwestern University Law Review, Vol. 61 (March-April, 1966), p. 50n.

[26]Ibid., p. 53.

[27]Poore, op. cit., p. 1410.

[28]Ibid., p. 1909.

[29]Ibid., p. 1542.

[30]Ibid., p. 1860.

[31]Rutland, op. cit., pp. 21-22.

[32]Ibid., p. 44.

[33]Ibid., p. 64.

[34]Poore, op. cit., p. 959.

[35]Joseph Story, Constitution of the United States (Little Brown: 1873), Book III, p. 747.

[36]Emery, op. cit., p. 476.

[37]Newton and Zimring, op. cit., p. 256.

[38]Max Farrand, United States Constitutional Convention (New Haven: Yale University Press, 1966), Vol. IV, p. 59.

[39]Rutland, op. cit., p. 112.

[40]Ibid., Chapter IV.

[41]Cecelia Kenyon, ed., The Antifederalists (Indianapolis: Bobbs-Merrill, 1966), p. 195.

[42]Feller and Gotting, op. cit., p. 57.

[43]Rutland, op. cit., p. 135.

[44]Edward Dumbould, The Bill of Rights and What it Means Today (Norman: University of Oklahoma Press, 1957), p. 12.

[45]Rutland, op. cit., p. 143.

[46]Jonathon Elliot, The Debates in the Several State Conventions on the Adoption of the Federal Constitution (Philadelphia: J. P. Lippincott, 1836), Vol. III.

[47]Feller and Gotting, op. cit., p. 59.

[48]Dumbould, op. cit., p. 182.

[49]Ibid., p. 47.

[50]Ibid., p. 185.

[51]Feller and Gotting, op. cit., pp. 59-60.

[52]Dumbould, op. cit., p. 30.

[53]Ibid., p. 189.

[54]Feller and Gotting, op. cit., p. 61.

[55]Dumbould, op. cit., p. 23 and p. 33n.

[56]Ibid., p. 24n.

[57]Ibid., p. 207.

[58]Feller and Gotting, op. cit., p. 61.

[59]Joseph Gales, Annals of the Congress of the United States (Washington: Gales and Seaton, 1834), Vol. I, pp. 749-752.

[60]Dumbould, op. cit., p. 62.

[61]Feller and Gotting, op. cit., p. 62.

[62]Robert A. Sprecher, "The Lost Amendment," American Bar Association Journal, Vol. 51 (July, 1965), p. 665.

[63]92 U.S. 542.

[64]92 U.S. 553.

[65]110 U.S. 516.

[66]Irving Brant, The Bill of Rights: Its Origin and Meaning (Indianapolis: Bobbs-Merrill, 1965), p. 356.

[67]See Robert Sprecher, op. cit., p. 666 for a review of related Supreme Court cases.

[68]116 U.S. 252.

[69]Sprecher, op. cit., p. 666.

[70]116 U.S. 265.

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[71]153 U.S. 535.

[72]165 U.S. 275.

[73]Sprecher, op. cit., p. 666.

[74]307 U.S. 174.

[75]307 U.S. 178.

[76]Feller and Gotting, op. cit., p. 65.

[77]II F. Supp. 219 (S.D. Fla.).

[78]307 U.S. 178.

[79]Feller and Gotting, op. cit., p. 66.

[80]Cases V. United States, 131 f. 2d 916 (1st cir; 1942), p. 922.

[81]Ibid., p. 922.

[82]Ibid., p. 923.

[83]131 f. 2d 261 (3d cir. 1942).

[84]Ibid., p. 266.

[85]Poore, op. cit. A review of all state constitutions up to 1889 formed the basis for this figure.

[86]Alabama, Indiana, Kentucky, Michigan, Mississippi, Missouri, Oregon, Pennsylvania, Texas, Vermont, California. (The constitutions of Florida and Ohio are inconsistent as Florida adopts the individual view in a later constitution, whereas Ohio drops it in a later constitution).

[87]Kentucky and Missouri.

[88]The idea of an unsettled frontier was strong, particularly in the western states, and it led to no little consternation. Feller and Gotting, op. cit., p. 67n quote Luther Martin in I Elliot's Debates 371: "It would be absurd that the militia of the western settlements, who were exposed to an Indian enemy, should either be confined to the same arms or exercise as the militia of the Eastern or Middle States." Apparently, the ability to respond quickly and reasonably to the menace of the frontier invested in many the desire to have the militia "locally" controlled.

[89]Poore, op. cit. North Carolina adopted this language only after the Civil War.

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[90] Ibid., p. 610.

[91] Ibid., p. 1421.

[92] Ibid., p. 1675.

[93] Rohner, op. cit., At the end of this article, Ralph Rohner has constructed an appendix of all modern (up to 1965) state constitutional provisions dealing with the subject of arms.

[94] Pennsylvania Constitution, Article I, Section 21.

[95] Connecticut Constitution, Article I, Section 15.

[96] Missouri Constitution, Article I, Section 23. States having similar language include Colorado, Kentucky, Mississippi, Montana, New Mexico.

[97] Florida Declaration of Rights, Section 20. States having similar language include Georgia, Idaho, Mississippi, Oklahoma, Tennessee, Texas, Utah.

[98] Washington Constitution, Article I, Section 24.

[99] Hearings before Senate Juvenile Delinquency Sub-Committee, 89th Congress, 1st sess. (1965), p. 376.

[100] Newton and Zimring, op. cit., p. 88. Convicted felons and those judged mentally incompetent are generally those excluded.

[101] Ibid., p. 89.

[102] Ibid., pp. 92-93.

[103] 2 Litt (Ky.) 90, 13 Am. Sec. 251.

[104] Feller and Gotting, op. cit., p. 63.

[105] Nicholas V. Olds, "The Second Amendment and the Right to Keep and Bear Arms," Michigan State Bar Journal, Vol. 46 (October, 1967), p. 18. Olds cites Salina v Blaksley, 72 Kansas 230.

[106] In re Brickey, 9 Idaho 597.

[107] State v Johnson, 16 S.C. 187.

[108] Moore v Gallup 45 NYS 2d. 63; 267 App. Div. 64.

[109] State v Dake, 42 Texas 455.

[110] Rohner, op. cit., p. 77.

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[111]Ibid., p. 77.

[112]Haynes v U.S., 390 U.S. 85 (1968).

[113]Newton and Zimring, op. cit., p. 266.

[114]U.S. v Miller 307 U.S. 174 (1939).

[115]Newton and Zimring, op. cit., p. 266.

[116]Roscoe Pound, The Development of Constitutional Guarantees of Liberty (New Haven: Yale University Press, 1957), p. 91.

[117]Sprecher, op. cit., p. 667.

[118]Pound, op. cit., p. 161.

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## CHAPTER II

## FIREARMS RESTRICTIONS: ROLL CALL VOTING

The product of legislative business is a decision on some matter of public policy or private interest. Decisions are rendered in a variety of ways which include both formal and informal methods. Two Senators may meet in a hallway, for example, and informally agree not to place rival bills before the chamber. Often, however, and especially when decisions are to have the force of law, decision making involves the formal processes of legislative voting as well.

Voting may take a variety of forms in legislative chambers but not all of these are useful to the political analyst. Some of the voting, for example, is conducted in secret sessions and thus the knowledge of who voted for what is obscured. Non-record open voting likewise presents a problem, for whether the method is voice vote, head count, or hand count, the result is always the same: the determination of a majority, but no indication of who comprises that majority. Roll call voting is of particular value, however, as it not only identifies a majority and

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a minority, but it specifies precisely who comprises each. It produces an endurable record of what for most Congressmen and Senators is the single most important and visible legislative act.

## Roll Calls as Behavioral Measures

This chapter makes use only of roll call voting in its analysis. The exclusive use of roll calls as measures of legislative behavior should be put into proper perspective for even though they can be seen as behavioral measures, there are a variety of other measures of human legislative behavior. For example, we can view the behavior of Senators in floor debates through the use of content analysis. Such an exercise might provide us with some objective measures and data and interpretations of a Senator's verbal behavior, and thus, insight into his decisions.[1] But the measuring of verbal behavior is fraught with inaccuracies and is also very time consuming; actions on roll calls are much more easily viewed and analyzed.

The primary methodological attraction of roll call votes is that they provide an abundance of data that can be examined statistically. Roll calls lend themselves to quantitative analysis because they are already in quantitative form, and are relatively easy to manipulate in analysis.[2]

> The nature of roll-call voting makes empirical analysis comparatively easy. Roll-call votes are 'hard' data; also, they are public data. David

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> Truman observes that, 'like statistics on elections, they represent discrete acts the fact of whose occurrence is not subject to dispute. They do not depend for their validity as data upon verbal reports of action or upon the impressions of fallible observers.'[3]

Roll call analysis is of particular use in identifying voting blocs: What are the salient and divisive issues before the Senate or the House? Do antagonists consistently display similar voting behavior vis-a-vis one another? Over a variety of roll calls on similar issues, do Senators behave similarly? Answers to questions such as these provide a useful description of some of the behavior of legislators, and allow a first step in explaining legislative decision making.

Whereas the divisions of legislators and the diverseness of issues may be noted with important interest, it is equally important to explore the causes of such divisions, or at least to discover what other characteristics are associated with legislative voting divisions. This latter concern includes, for example, discovering the relationship between roll call voting and constituency characteristics.

A note of general caution should be interjected on the abuses of roll call analysis. The various forms of roll call analysis are primarily processing tools, enabling us to digest and sort large quantities of behavioral data, producing descriptions of the data as results. But roll call analysis itself does not allow one to offer explanations of voting divisions and issue groupings; at best, it

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provides usefully packaged information that can be used later in attempts at explanation. Second, it is important to remember that roll call voting is only one behavioral manifestation of a much wider universe of legislative activity. There is no reason to suspect that roll call behavior is necessarily representative of this wider spectrum which includes verbal behavior, committee voting, and informal contacts with other legislators. It is, of course, possible to presume a general similarity in all these types of behavior, but roll call analysis alone will not test such presumptions. Roll calls must be treated for what they are: a particular measure of a single type of legislative behavior.

> There is much to be said in favor of studying the legislative process in terms of legislative behavior. But whether the roll-call vote is the best unit of analysis is another matter. The assumption is that what 'really counts' in legislative behavior is the ultimate and public commitment symbolized by the vote. If a legislator consistently votes with the majority of his party colleagues on a great many issues, it may be legitimately inferred that he is 'partisan' in behavior not only in the roll-call stage of the process, but also in earlier phases. But the roll-call vote cannot be taken as proof of this.[4]

The third important qualifier in the use of roll call analysis stems not so much from the nature of the method, but rather from the quality of the data. That is, individual roll calls are very seldom concerned with a single issue or question of policy. More often than not a single roll call includes questions of procedure, problems of personality conflict, as well as a multiplicity of

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issues substantively related to some general issue at hand. As a result, analysis of some roll calls requires extremely delicate handling. Indeed, some roll calls are so confused by a multiplicity of issues that any meaningful quantitative analysis becomes impossible. This latter condition is largely the case with "omnibus bills" which package a great number of issues under a single vote. Roll calls on simple amendments to more complex bills often offer a more simplified analytical task.

Even after all this, however, we are still left with the problem of deciding what combination of the legislators' "true attitudes," as well as those he felt it "proper to display," were embraced by the particular roll call.[5] This is a thorny problem, but one largely avoided as long as roll call data is not analytically manipulated to "prove" the existence of underlying attitudes. For example, during the greater part of the inquiry in this study, roll call profiles are themselves applied to further analysis; individual attitude constructs are not distilled from the roll calls and used in the analysis. The notable exception to this is where attitudes are broadly associated with environmental differences among the states, and this is associated, in turn, with roll call behavior on firearm legislation. In such a case, attitudes are hypothetical constructs used to explain relationships between dependent and independent variables.

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This chapter uses roll call analysis to answer a number of questions. Defined in terms of roll call behavior, who were the proponents and opponents on the issue of gun legislation in the U. S. Senate during the 90th Congress? What were the principal issues at stake in the firearms roll calls? In what respect did different firearms roll calls divide the Senate differently? Do voting divisions on firearms legislation parallel voting divisions on other issues?

In its simplest form, roll call analysis is a dichotomous measure of legislative behavior. A Senator, if present and voting, will usually vote either yea or nay on an issue. In most studies all yes votes are equal in strength, as are all no votes. David Truman's 1959 Congressional study is an exception for yes votes could be given one of two values, as could no votes.[6] Studies of a single roll call vote are not without precedent, for as Duncan MacRae notes, "the detailed study of a single roll call can give insight into the legislative process."[7] But analysis of a single vote usually tells us very little without exhaustive research into the background of the vote, including committee discussions, floor debates, parliamentary maneuvers, as well as a knowledge of bill sponsors, proponents and opponents. This, of course, is something that might be done even with the analysis of many roll calls.

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The analysis of Senate voting on firearms legislation is of little value unless many roll call votes are analyzed. The reasons for this are quite plain. First, absenteeism, although largely random in the Senate, can for any given roll call produce disastrous consequences. A committee or sub-committee in session, bad weather, personal affairs, and many other factors can combine at any given moment to drastically alter the complexion of a single vote. However, an analysis of a series of substantively related votes over an extended period of time will eliminate much of the excessive influence of these short run factors.

Second, individual roll call votes have a tendency to reflect the short run importance of temporarily held views rather than to reflect long range, more permanent, positions. But the heat of a fresh debate or the effect of a recent national event are likely to be of less importance when a number of roll calls on a given issue are examined over time.[8]

Third, a single roll call, manifestly concerning one issue, may actually hide another issue or issues. This is especially true with roll calls on bills whose subject matter is heterogeneous. Analysis of several bills whose contents are related primarily to the issue at hand will lessen the effect of these secondary issues.

The use of a large number of roll calls requires that they be categorized or grouped for easier management.

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Two types of groupings are employed here. First, roll calls are grouped according to their substantive similarity to each other. This requires the analyst to proceed intuitively categorizing various roll calls according to the content of the bills. Floor debates and committee hearings may be aids when the wording of bills are obscure. The relative specificity of the categories is largely dependent on the needs of the analyst. In this study the categories are general, having broad boundaries such as "firearms legislation," "military expenditures," "welfare legislation" and the like. As a check on the intuitive method of categorization, as it applies to firearms legislation, Guttman scaling is used to supplement the intuitive approach.

Whereas the grouping method above largely involves qualitative judgments and intuitive processes, the second method relies more heavily on statistical-quantitative techniques to provide initial insight into groupings. This second method groups roll calls according to how well legislators agree on a group of votes "in the sense of voting similarly on issues." Such groupings often transcend a narrow issue area, such as might be found by the intuitive method above, and require that we specify more general definitions to include their more heterogeneous composition. This second method is useful for discovering voting similarities over a number of bills apparently not substantively related. It may be discovered, for example,

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that Senators vote similarly on issues as far ranging as firearms legislation and debt limits. Nevertheless, after the quantitative analysis has provided this broader grouping, it is still essentially left to intuitive processes to determine substantively in what way they are related. We may, for example, decide that firearms legislation and setting the debt limit are sub-issues of a much more general category of roll calls having to do with the growth of Federal powers.

## Selection of Senate Roll Calls

With all of these considerations in mind, the selection of Senate-90th Congress roll calls was made according to the following considerations. First, roll calls approaching unanimity (affirmative or negative) are discarded as their ability to discriminate among participants is of minimal value. Additionally, because some of the roll calls are used in Scalogram Analysis, roll calls having less than 20 per cent of the Senators in the minority category are also discarded. This requirement may seem harsh, but the effect is to reduce the probability of spuriously high coefficients of reproducibility in respect of Guttman scales.[9] Under other circumstances marginal requirements might not be so extreme, set perhaps at 90:10 or 10:90. Such a relaxed criterion does not seem reasonable here, nor necessary.

The problems of absenteeism and substantive heterogeneity in roll calls has already been discussed. The

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solution to these concerns produced two other systematic, non-policy related criteria for selecting roll calls. On the matter of absences, it was arbitrarily decided that any roll call having less than 75 per cent of the membership participating would be rejected.[10] On the matter of substantive heterogeneity, roll calls on bills with multiple titles were also discarded. This included, for example, the final vote on President Johnson's Omnibus Crime Bill.

The criteria listed above are all systematic, non-policy-related criteria for selecting roll calls because the criteria are measured quantitatively. Policy-related criteria are also applied, however, for only roll calls having to do with particular areas of public policy were selected; i.e., social welfare, military expenditures, legal procedures, relations with communist nations, setting the debt limit, civil rights, and states rights. These categories were intuitively defined and the roll calls were placed in them applying the subjective criteria of the analyst.

Roll calls meeting all of the above requirements were retained for analysis. These criteria qualified 66 out of 595 roll calls listed for the Senate, 90th Congress, 1st and 2nd sessions.[11] Most of the bills were disqualified for reasons related to the policy criteria. Some, however, were eliminated because of unanimity or near unanimity in voting patterns. With a very few exceptions,

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the criteria involving absenteeism and marginals (proportions greater than 80:20) were not applied as the remaining roll calls met these minimal requirements. In a sense, therefore, the 66 roll calls are the total of the usable roll calls for the Senate (1967-1968).

## Analysis of Multiple Roll Calls

Generally, roll calls are used in analysis with other roll calls, primarily for reasons discussed earlier in this study. This may extend from the rather simple exploration of legislative voting similarities between two roll calls to the much more complex processes of deriving scores for legislators from scales based on a group of roll calls. The simpler forms of analysis, or those using non-scalar techniques, are meant to provide answers to two questions: In what fashion do roll calls and legislators group? How cohesive are these groups and how different are these groups in respect of voting behavior? Anderson, Watts and Wilcox list several statistical measures of indices of cohesion in "Legislative Roll Call Analysis." Rice's Index of Cohesion, characterized as measuring the numerical size of factions within a group, is contrasted with measures of interpersonal agreement among group members. In essence the latter measures determine what percentage of the time legislators agree on a series of roll calls.[12] "The Rice Index measures cohesion, first and foremost, as a function of aggregate group action on single roll calls."[13]

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> A major difference between the Rice index and the indexes based on interpersonal agreements lies in the primary units that each analyzes. For the Rice index (or the indexes of absolute and relative cohesion), the individual roll call is taken into account and is analyzed as a unit. Average indexes of cohesion are calculated from Rice measures for a series of votes. In measures of cohesion based on interpersonal agreement, the unit of analysis is the dyad, or pair of legislators. A large number of roll calls must be taken into account to produce an accurate measure of agreement for one dyad, and a myriad of possible dyads must be analyzed. In other words, the Rice index measures cohesion first and foremost as a function of aggregate group action on single roll calls. The techniques for determining agreement of pairs focus primarily on cohesion as a function of interpersonal, dyadic relationships.[14]

The primary advantage of agreement indices over the various cohesion indices is the ability to simultaneously analyze and aggregate large numbers of both legislators and roll calls (especially if computors assist in the process). The agreement index mode of measuring intra-group cohesion was selected here over the Rice index for two reasons. First, a computor program, equipped to handle large numbers of both roll calls and legislators in an agreement program, was readily available. Second, the agreement program used in conjunction with a clustering program offered a means of combining both Senators and roll calls using all of the 66 selected roll calls. Essentially, I was able to supplement the intuitive approach of grouping roll calls with one that combined either roll calls or Senators on objective behavioral criteria.

The basic formula of the agreement program counts the number of roll calls on which two Senators agree (F),

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divided by the total number of roll calls considered (T), multiplied by 100 to render a score on the scale of 100 for purposes of comparison.

$$\text{Agreement Index (A1)} = \frac{F}{T} \times 100$$

Absences present a dilemma in the analysis. If a Senator had been present would his vote have been in agreement or disagreement with his colleague? On one hand, he may have deliberately been absent so as not to vote because he was in partial agreement with both sides. In this case we can assign 1/2 the units of agreement for this particular roll call absence. This procedure can be written into our program by adding 1/2 the number of roll calls involving one abstention (A).

$$A1 = \frac{F + 1/2\ A}{T} \times 100 \qquad 15$$

Not all absences can be interpreted as abstentions, however. Some absent Senators would assuredly vote with one side or the other. If this were the case, absences would have to be handled differently. The data in this study, however, has very few absences as such. Those who wish to vote but cannot be on the floor are incorporated here through the data category of "announced yes" or "announced no." The remaining small number of absences may account for those Senators who had no strong or fixed opinion or

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Measuring the intra-group cohesion of various groups (A1) fails to tell us how much disagreement or distance there is between groups. One of the simplest, and perhaps the most frequently used, statistical tools for measuring inter-group differences is the statistic known as chi-square ($X^2$). Computing a $X^2$ is a relatively simple operation which "provides a means of determining whether the difference in the portion of the (two) groups voting 'yea' and 'nay' is larger than that expected by chance."[16] Regrettably, this does little to tell us what accounts for the non-random differences between the two groups. Additionally, $X^2$ does not allow us to specify the degree to which a difference exists. Simply, $X^2$ only specifies the probability of our being correct in saying a non-random difference exists between two groups in respect of some attribute or behavior.

The Contingency Coefficient (C) is a measure of the strength of difference between two groups in respect of some characteristic. The maximum value of C depends on the number of categories in the responses. In this study both variables have only two responses and Ferguson reports the maximum value of C under such circumstances is .707.[17]

In the case of $X^2$ it is often very useful for the analyst to "eyeball" displays of the contingency tables

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(generally 4 cell tables here) on which those statistics are built. Inspection of such tables may indicate for example that although the differences between groups are large and significant (C, $X^2$) one group is much more cohesive than another (A1).

The advantages and disadvantages of statistical techniques are more often than not in the eye of the user. Likewise, the advantages and disadvantages of using scale techniques, over the techniques just discussed, depends on the use intended. The methods just described will provide us some means of categorizing roll calls, of describing the voting behavior of Senators, and of grouping participants. However, Guttman scaling will do all of the above and it will also present additional information.

Guttman scaling was originally developed as a method for determining whether a group of responses, by subjects, form a scale. Guttman scaling is an ordinal technique as it seeks only to order subjects according to some dimension. As first used, this ordering technique arranged subjects according to their responses to questionnaire items. Later, use was extended to a variety of other behavioral measuring devices such as judicial voting and roll call voting.[18] The principal bone of contention surrounding the use of Guttman scaling is the practice of inferring underlying attitudes from a rank order based on a cumulative pattern.[19] Responses to statements having a common content are noted as favorable or unfavorable.

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Subjects with the greatest number of "favorable" responses are said to have the most favorable attitude toward the content of the statements.

The criticisms of inferring such underlying attitudes are numerous.[20] There is the problem, for example, of directly defining an attitude based on responses to a limited number of items. Guttman asserts this is proper as long as one assumes the attitude is a "delimited totality of behavior with respect to something."[21] This does little to solve the methodological problem of deciding an abstract "delimited totality" does indeed get measured by the questionnaire or whatever. This serious problem of inferring attitudes from some set of behavioral manifestations is most succinctly put by Spaeth and Peterson:

> A cumulative pattern may be considered a necessary but not a sufficient criterion for the identification of an attitude. That is, a single underlying attitude implies a cumulative pattern, but a cumulative pattern does not imply a single underlying attitude.[22]

Vanderslik suggests that the most appropriate way out of the problem is "to treat Guttman scaling as a technique for assessing the dimensionality in decisional responses."[23] In this case, the link between the items of the questionnaire and the roll call become much more direct, avoiding the intervention of attitudes. So too, the emphasis of the inquiry is changed from attempting to find an attitude in someone to one of measuring an attribute in the roll call items. Torgerson defines an

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attribute as a measurable property capable of gradations.[24] The immediate task becomes one of finding a property common to all items in the scale and relating that property to the decisions made by the subjects. The resultant scale (assuming scalability) is along the dimension of the scalable attribute and not some dubious attitudinal construct. Torgerson states the problem of Guttman scaling as trying to discover whether both subjects and items form a scale.

> The primary problem will be to determine whether the set of items and the set of individuals together "form a scale." Can we order the subjects and/or the items along a continuum in such a way that the responses of subjects to items can be accounted for by this order? Can we consider the responses to the items to be dependent on a single (though perhaps complex) attribute? Can the responses to the items be considered as indicating a relationship, with respect to a single attribute, between the 'position' of the subject and that of the item categories? Can the alternative response categories within an item be ordered? If so, we shall say that the items form a scale for this group of subjects, or that the attribute to which all of the items refer is a scalable attribute.[25]

Scales involving roll calls present special problems when specifying attributes. The problem is less severe in scales using questionnaires, for the construction of questions can be done with a specific attribute in mind. Roll calls do not offer the analyst such a chance for he must take the roll calls as given. Under such conditions, the specification of attributes is essentially an intuitive process defined by the analyst and operationalized in the roll calls he uses.[26] Definition and measurement of the attribute, therefore, becomes a function of which roll calls are selected.

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Putting aside for the moment the problem of selecting roll calls, inquiry may be made into the problem of determining when a "good" scale has been produced. Reproducibility is the central concern in answering this question. "In a perfect scale, the responses of a subject to all of the items can be reproduced from knowledge of his rank position alone."[27] In turn, the definition of error is the number of responses erroneously predicted. A perfect scale requires, however, that each subject correctly view his position vis-a-vis the attribute and all the items. Additionally, it is required that each item reliably inquires about the same attribute.[28] It should be suspected that only rarely all of these conditions and assumptions will congeal to form a perfect scale. The question of finding a "good scale," therefore, depends on what level of error we are willing to accept.

Criteria for accepting a scale as sufficiently approximating the results of a perfect scale have come from a number of sources, including Guttman, Torgerson, and Edwards. Guttman himself first suggested what is called the coefficient of reproducibility which produces a percentage of non-scale responses.[29]

$$CR = 1 - \frac{\text{total number of errors}}{\text{number of subjects x number of items}}$$

The percentage of error becomes, (1-CR). Guttman originally accepted an error of 15 per cent,[30] but Torgerson has suggested an error of 10 per cent as the outer limit in

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accepting a scale.[31] "But this is not a sufficient condition, for the simple reason that the reproducibility of any single statement can never be less than the frequency present in the modal category."[32] If all items had a modal category of 92 per cent, the greatest error possible would only be 8 per cent. The greatest possibility of error would be present in those statements (two categories in roll call responses) where the modal category was 50 per cent. Not all statements, however, may be allowed to maximize the possibility of error for "with a perfect scale, and all statements dividing .5 and .5, only two scores would be possible."[33] To avoid these and similar problems Torgerson has suggested the application of a number of criteria:[34]

1. Ten items should be used when the items are dichotomous.
2. A considerable range of marginals should be employed.
3. No modal category should have more than 80 per cent of the responses.
4. No large number of subjects should be found to have the same non-scale responses.
5. There should be no more than 15 per cent error in any category.
6. Each category of each item should have more non-error than error statements.

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With a few minor exceptions, which will be noted later, these criteria were applied to this study.

Roll calls and Guttman scaling are joined in this study to produce a measurable range of behavior in respect of Firearms roll calls in the Senate of the 90th Congress. The cumulative techniques of Guttman scaling, and the resultant scale scores for Senators respecting this issue are then related to other roll calls and to constituency characteristics.

A Description of Senate Firearms Roll Calls

The great majority of debate and all the roll call activity on firearms legislation in the Senate of the 90th Congress is limited to its second session (1968). Shocked into action by the assassinations of Martin Luther King and Robert Kennedy, Congress, in two separate actions, wrote into law the strongest Federal gun provisions since the Federal Firearms Act of 1938. The first action came on June 6 when Congress passed the Omnibus Crime Control and Safe Streets Act containing provisions outlawing the interstate shipment and sale of hand guns.

The second major Congressional action, completed y October 10, prohibited the interstate shipment and sale f long guns and ammunition to individuals. Shotguns, fles, and ammunition had been specifically excluded om provisions in the Omnibus Crime Bill but the assassi- tion of Kennedy on June 5 revitalized attempts to strict these other items as well; strong pressure was

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so kindled to enact measures requiring gun registration
d owner licensing. But the amendment offered by Senator
dings calling for the registration-licensing of firearms
s defeated in September by a Senate vote of 31-55.

The Senate took fourteen roll calls votes between
y 16 and September 18 to settle the issue of firearms
gislation, while the House recorded only four such roll
ll votes. Likewise, the Senate roll calls covered
arly every major gun issue, from banning mail order
les to registration-licensing, while House roll calls
alt with a much more restricted range of issues. Inso-
r as roll call votes are important to the major analyti-
l components of this study, analysis of Congressional
tions is largely limited to the Senate where a more
stematic and thorough analysis can be made. Some minor
alysis using the House roll call data is used later,
wever.

The Senate Judiciary Committee was assigned pri-
y responsibility for the Administration's Omnibus
me Control Bill, under Title IV of which were lodged
visions pertaining to arms. The Administration proposed
ning mail order sales of all firearms including shot-
s and rifles; the breadth of this prohibition initially
ed the Judiciary Committee to reject the entire fire-
proposal by a vote of 4-9. It was only after Dodd
red an amendment excluding long guns and shotguns from
rictions in the bill that the Judiciary Committee

passed the

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passed the Title IV handgun provisions by a 9-7 vote. This second committee vote on Title IV was taken April 5, one day after the death of Martin Luther King. Title IV, as reported by the Judiciary Committee, contained the following general features as summarized by the Congressional Quarterly.

> Prohibited the sale of firearms, except rifles and shotguns, to persons under the age of 21.
> Prohibited the over-the-counter sale of a handgun to a person not living in the dealer's state.
> Prohibited the transportation in interstate or foreign commerce of 'destructive devices' and gangster weapons.
> Made illegal the sale of a firearm to a felon, fugitive or a person under indictment.
> Curbed the importation of surplus military weapons not suitable for target shooting or hunting.
> Provided specific federal licensing standards for gun dealers and manufacturers and increased licensing fees.[35]

The May 16, 1968 Senate floor debate of Title IV proved to be important as five separate amendments to the firearms provisions were defeated. Four of the amendments were proposed by Senate liberals and would have variously expanded coverage of the Bill. Three of the four amendments reflected Administration attempts to have rifle and shotgun provisions reinserted into the language of Title IV. Edward Kennedy, acting as a vehicle for the Administration, offered such an amendment, but it was defeated by a 29-53 Roll Call vote (Roll Call #38).* Congressional

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*This Roll Call number and those which follow correspond to a numbering system I have devised. Appendix A converts these numbers to their equivalents as reported by the Inter-University Consortium for Political Research in Ann Arbor, Michigan.

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uarterly reports law enforcement officers gave hearty
upport to Kennedy's Amendment.[36]

Senator Dodd also offered an amendment adding
ong gun coverage to the bill but with a seemingly important
ifference. Dodd's amendment would have allowed state
egislatures to exempt their states from the long gun pro-
isions, an obvious attempt to placate the interests of
ural states which felt the long gun provisions were
duly harsh toward them..

> MR. JAVITS. Representing, as I do, a State with both a large urban and a large rural population, it is perhaps clearer to me than to some Senators that this is really a city-rural issue. We did not think of gun registration, in fact we had no reason to, until we had 70 percent of our population in the cities, where every man cannot have a rifle hanging above his fireplace.[37]

dd's compromise produced negligible results as a roll
ll vote of 29-54 defeated the measure (Roll Call #39).
cob Javits also sought to include long gun provisions
Title IV similar to Dodd's amendment. Javits' proposal
ld have required a mail order buyer of shot guns or
les to submit a sworn affidavit stating that he was
r 18 years old, that no local law prohibited him from
ing the gun, and that state law did not prohibit him
m receiving the gun. Javit's measure failed by a
e of 30-47 (Roll Call #40).

After the issue of long guns seemed decided, the
ate considered an amendment offered by Brooke of
achusetts that would have prohibited absolutely the
or delivery in interstate commerce of a variety of

ther weapons, including machine guns, bombs and hand renades. This would amend Title IV, as reported by the udiciary Committee, for there, these weapons could be urchased as long as the chief law enforcement officer of ne locality attested to their intended use for lawful easons. The amendment was defeated 30-47 (Roll Call #41). terestingly, Dodd voted against Brooke's amendment as unwarranted exercise of police powers.[38]

Senator Hruska of Nebraska who staunchly opposed st firearms legislation offered the only floor anti- ministration amendment to Title IV. Hruska's amendment uld have allowed hand guns to be purchased through the ils on submission of an affidavit to the dealer that the er was not legally prohibited from purchasing the gun. effect was to alter the general prohibition against mail purchase of handguns. The amendment also carried h it provisions for less restrictive licensing standards firearms dealers. The amendment was rejected 37-45 ll Call #42). By voice vote the Senate rejected an ndment by Bennett of Utah which would have "set mini- mandatory jail terms and fines for persons convicted pecific crimes in which a firearm was used."[39]

On May 23, by a 72-4 vote, the Senate passed the bus Crime Bill, including the Title IV handgun provi- s as generally outlined above.

The most controversial legislation on firearms debated after passage of the Omnibus Crime Bill, as

Robert Kennedy's assassination revived the seemingly
settled issue. H.R. 17735, passed in September, became a
major center of controversy, in part because of its
restrictions on long guns, but most importantly because of
repeated attempts at including registration-licensing pro-
visions. The final provisions of the bill, however, did
not include the registration and licensing of firearms
and owners; proposals for such restrictions were defeated
in both houses by overwhelming margins. The provisions of
H.R. 17735 are numerous, but a summary of major features
includes that: (1) it prohibited the mail order and other
interstate shipment of firearms (long guns in particular)
and ammunition in transaction between dealers of one state
and buyers of another; (2) with exceptions, it banned
over-the-counter sales of firearms and ammunition to per-
sons from out of state;* (3) it made allowance for the
intra-state mail order shipment of arms only if the buyer

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sales to buyers from contiguous states were not banned.
other exceptions as listed in the 1968 Congressional Quar-
terly Almanac (p. 550): "Permitted a person outside his own
state to replace a firearm that was lost, stolen or broken
after signing a sworn statement to that effect. Permitted
non-resident of a state to rent or borrow a firearm for
temporary use for lawful sporting purposes. Permitted
shipment and receipt of firearms and ammunition when sold
or issued by the Secretary of the Army to members of the
National Rifle Association (NRA) or certain eligible
civilian rifle ranges. Permitted shipment of firearms and
ammunition particularly suitable for sporting purposes to
members of the U.S. Armed Forces on active duty outside
the United States and to clubs recognized by the Depart-
ment of Defense whose entire membership is composed of such
persons."

bmitted to the seller a sworn statement that he was herwise legally allowed to receive the guns or ammuni- on; (4) it prohibited importing foreign made military rplus; (5) it disallowed the sale of shotguns, rifles, l ammunition to persons under 18, and the sale of hand- ns and its ammunition to those under 21. Several pro- sions concerning licensing procedures for dealers were o included.

The second round of Senate debate and roll calls an on June 18 when Thomas Dodd's Senate Judiciary, enile Delinquency Subcommittee passed S3633 (Senate nterpart to H.R. 17735), banning the mail order and er-state shipment of rifles, shotguns and ammunition.* same sub-committee opened hearings June 26 on bills ously requiring the licensing of gun owners and the istration of all firearms. The mood of the Senate, as as the nation, had changed dramatically in one month, Kennedy's death played no small part in that change. ral Senators on the sub-committee altered earlier sition to restrictions. Whereas long gun restrictions been soundly defeated in the Senate one month earlier, Senate now seemed willing to go even further and give ng consideration to registration-licensing features.

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two are actually synonomous. S3633 is the Senate alent of H.R. 17735. The Senate actually passed 17735 but only after substituting the language of .

> Among the Senators on the Subcommittee who voted for the bill was Roman L. Hruska (R Neb.), who had been the staunchest Senate supporter of the position of the National Rifle Association (NRA) against strict gun regulations. Hruska said public opinion has 'crystallized' in favor of strong controls and it was 'reasonable for the Congress to review its work in the light of changing circumstances.[40]

The Senate Judiciary Committee was scheduled to
gin hearings on S3633 June 27. Hearings actually began
July 9, however, and it was not until September 6 that
33 was reported out by the Judiciary Committee in a
3 vote. The Bill, as reported, contained most of the
visions finally passed by the Senate but the final com-
tee vote produced several "separate views," basically
lective of the divisions which had occupied the Commit-
during much of the summer. Fong (R Hawaii), Hart (D
nigan), Tydings (D Maryland), Scott (R Pa.), and
hers (D Fla.), in a separate opinion, called S3633
lequate, advocating in addition to its present features,
stration provisions. This is especially interesting
iew of the fact that Hart had voted against rifle and
gun mail order restrictions during deliberations over
e IV of the Omnibus Crime Bill. Eastland (D Miss.)
Thurmond (R S.C.) and McClellan (D Ark.) all voted
ist S3633 and its mail order long gun prohibitions.

Although S3633 did not contain registration and
ising features, proposals for such engendered consid-
e Committee debate. Tydings (D Md.), the chief
nent of licensing-registration, tried unsuccessfully
number of occasions to have the committee amend

633 in this respect. Several close committee votes were
ported to have been taken with Tydings' proposals
rrowly going down to defeat. This debate, coupled with
dings' threat to bring the issue of registration to the
nate floor caused considerable consternation among
ponents of registration. The result was that Dirksen
R Ill.), Hruska (R Neb.), Burdick (D N.D.), and Thurmond
R S.C.) offered separate views to the majority report of
ie Judiciary Committee, stating unequivocal opposition to
ıy Federal licensing and registration requirements.

These major divisions in the Judiciary Committee
ere to reflect subsequent divisions in debates on the
nate floor over S3633. First, there was the faction
posed to nearly any form of Federal regulation of
rearms. Second, there were those who favored banning
il order and interstate shipment of firearms, but opposed
gistration licensing. Finally, there were those who
vored registration-licensing along with banning inter-
ate transactions between dealers and buyers.

Debate on the Senate floor over S3633 had been
radic during most of the summer months, but on Sept-
er 12 the fate of the bill came under close scrutiny
serious debate began with Dodd scolding the NRA for
kwards thinking and questionable tactics.

> Mr. President, the National Rifle Association can see a little of the 19th century in just about everything. Spokesmen for the National Rifle Association repeatedly appeared before congressional committees and suggested, for example, that simple laws to disarm the criminal would result in the ultimate confiscation of all

firearms from the public, thus leaving it exposed to invasion by a foreign power. They believe, in short, that a handful of untrained riflemen and pistol shooters could and would route a modern war machine with tanks, cannons and jet fighters in the event that the U.S. military resistance collapsed. Seldom a month passes that an NRA official fails to cite some imagined, if not total fictional, example of a modern Nation collapsing because its citizenry were not armed to the teeth with Saturday night specials and fowling pieces. . . . Mr. President, there is the specter of the Old West spooking the front offices of the National Rifle Association. At the National Rifle Association, it is a man and his gun against the world. At the National Rifle Association, America has not changed substantially from the frontier of 100 years ago. It dwells on the concept of the armed citizen to the point where a significant portion of its magazine, the American Rifleman, is devoted to it. The National Rifle Association keeps its own version of a box score on the accomplishments of the armed citizen. In fact, each month, the magazine runs a standing feature column called 'The Armed Citizen.' Any detailed study of the column would have to conclude that it suggests citizen arm against citizen for 'self-protection.' The gun is worshipped almost as an entity 'whose mere presence' prevents crime.[41]

The National Rifle Association had generated great

sure since the death of Robert Kennedy, accusing gun

rictions supporters of whipping up public fervor and

ing Congress to react without proper time to think.

genuinely strong the NRA pressure was is questionable

enators generally had to deal with competing pressures,

NRA on one side, and public opinion polls on the other

ng that most Americans favored stronger gun curbs.

Roll call voting on S3633 is first recorded on

mber 16. The first roll call was on a Judiciary

ttee amendment excluding shotgun shells, rifle ammuni-

and .22 calibre rimfire ammunition from provisions of

ill. This amendment would have virtually eliminated

ll ammunition, except for handgun ammunition, from estrictions in the bill. The Senate refused the amendent 36-41 (Roll Call #58) and thus significantly expanded he bill's effect. On September 17 a roll call on Dodd's mendment to tighten qualifications for licensed firearms ealers was defeated 42-45 (Roll Call #59). Dodd's conern, and the concern of many other Senators was that the riterion established for gaining a dealer's license preented an important loophole in the bill. Dodd's amendent would have required, among other things, the dealer o maintain a place of business, as well as actually arry on business; the intent was to issue dealers licenses nly to those who genuinely intended to become dealers. procedural motion by Senator Allott (R Colo.) to table motion to reconsider Dodd's amendment passed 45-39 Roll Call #60).

September 18 records considerable Senate debate d voting, as well as the passage of H.R. 17735. Included the day's proceedings were amendments from proponents of rearms restrictions seeking registration-licensing, and endments from opponents restricting the applicability of e bill. Importantly, a series of roll calls on registraon and licensing all were defeated by large margins. first such amendment was proposed by Tydings and called the general registration of firearms and the licensing owners. Tydings had led the fight in the Senate for istration and licensing, although he was not the only

to offer such a bill. The Administration, through
l, submitted its own registration bill (S3691) requir-
Federal registration even where states had their own
istration laws; additionally, it visited certain penal-
s on states which did not enact licensing laws. Dodd
also submitted his own registration bill earlier
604) as had Tydings (S3634). These registration bills
er reached the floor of the Senate, however, being
tled up in the Judiciary Committee.

The only recourse left to Tydings and others was
raise the registration issue on the Senate floor by
posing amendments. Tydings' amendment called for manda-
y registration of all firearms, and in two years, manda-
y licensing of all those who purchased firearms. Tyd-
s himself was explicit that no one, not already pro-
ted by law, would place in jeopardy his possession of
rearm merely by registration.

> For the record, I stress this amendment imposes no inconvenience, no burden, no fee, no tax, no expense to the gun owner other than the cost of a 6-cent stamp or two. All of its procedures of registration and licensing can be accomplished by mail. There is no discrimination involved in the issuance of the license or the registration certificate. It is mandatory. The issuance of the registration certificate is automatic.[42]

gs statement was an attempt to take steam out of the
rgument that registration was a step away from confis-
n. Also, as Tydings points out, his amendment was a
deal more moderate than the Administration backed bill
l.[43] In particular, Tydings' amendment allowed states

ith their own registration requirements to preempt the
ederal requirements under certain circumstances. Tydings'
mendment lost miserably by a vote of 31-55 (Roll Call
61) even though its provisions might have been appealing
o those jealous of guarding state prerogatives in the
rea.

Registration did not die here, however, Senator
ackson (D Wash.) next proposed an amendment which pro-
ided that no license would be renewed or granted to
irearms dealers, importers, or manufacturers, or collec-
ors in states not having "effective firearms control
aws." Jackson's amendment sought no Federal level regis-
ration or licensing of owners; rather, it would create
onditons under which states would be forced to provide
heir own registration provisions. Jackson had voted
gainst Tydings' Amendment, but that was in conformity
th his public stand that registration should be promul-
ted at the local and state level only.

> This is a moderate bill. It does not go nearly as far as the administration bill. This is a bill which, if enacted, would put the burden on the States. It would afford some degree of protection to the citizens of the United States, and it would result, in my judgment and in the judgment of all the law enforcement officials who have testified before our subcommittee, in the saving of countless lives and countless treasure of our people.[44]

kson's amendment failed by a vote of 35-48 (Roll Call
).

Senator Brooke was next to propose a registration
endment, modified in some respects to take the sting out
the term "registration."

> The amendment I propose would create the framework for local, State, and Federal Governments to cooperate voluntarily in the collection and sharing of limited information concerning the identity, location, and ownership of firearms. First, the amendment provides for the filing of data on firearms, together with the names, addresses, ages, and social security numbers of their owners, with local law enforcement officers. The information could be filed either by mail or in person. Second, it relies on incentives, rather than any sanctions, to persuade local authorities to transmit this data to a national inventory. Third, it provides clear authority for States to create their own inventories and to exempt themselves at any time from coverage of the national system.[45]

amendment, however, was defeated 31-53 (Roll Call #63),
opponents of registration were not to accept registra-
n in any form. Brooke's amendment would have required
lers and manufacturers to transmit information on the
and the buyer to local authorities and to the Depart-
t of the Treasury.

The last attempt at registration through roll call
vity came on Tydings' amendment to require licensing
the carrying of concealed weapons. Even though previous
te had established a practical difference between
lation of handguns and other firearms, the Senate
sed to pass any sort of Federal registration for even
ealable weapons. The vote on Tydings' amendment was
9 (Roll Call #64), and spelled final defeat for
pts at registration and licensing. In this respect,
ssue of registration and licensing invoked a nearly

iform response among Senators: no matter who was
sponsible for the registration and what was to be regis-
red, none was to be allowed.

Senator Murphy (R Calif.) attempted to seriously
ken provisions of S3633 by offering an amendment
horizing the importation of firearms "not particularly
ceptible to criminal uses." The amendment would have
eated one of the original goals of H.R. 17735, that is,
wing the importation traffic in cheap foreign arms.
amendment failed 78-6 (Roll Call #65).

H.R. 17735 finally passed the Senate on September
1968, by a vote of 70-17 (Roll Call #66). The final
visions of the bill were generally unchanged from those
orted out by the Judiciary Committee. Minor changes
been accepted by voice vote but these largely had to
with simple modifications in language. Two of these
ce votes, however, are of more than casual interest
. Senator Dominick (R Colo.) proposed prison sentences
p to life for use of a firearm during a crime of
ence. The amendment passed. Also passed, was an
dment proposed by Brewster (D Md.) that no level of
rnment was empowered to legalize confiscation of
onry used for legal purposes. Brewster, from the same
e as Tydings, generally favored gun restrictions, so
s unlikely the amendment was designed to do anything
placate interests who were nervous about the potential
confiscation.

A summary of these roll calls brings a number of initial findings to mind. There were two distinct battles over firearms in the Senate. The first, fought prior to Kennedy's assassination, was largely over the issue of whether long guns and ammunition should be banned from the mails and from inter-state shipment or purchase. The proponents of such measures lost this battle, although they did win approval of similar prohibitions for hand guns. Passage of the hand gun proposal seemed in doubt, however, until King's assassination apparently dislodged Title IV from the Senate Judiciary Committee.

The second battle was fought after Kennedy's assassination and the issue was no longer whether there could be any additional regulations but rather how much new regulation. With important switches in positions on long gun mail order prohibitions by Hart (D Mich.), Thurmond (R S.C.), Burdick (D N.D.), and Bayh (D Ind.) in the Juvenile Delinquency Sub-Committee it became apparent very soon after Kennedy's death that long gun prohibitions were no longer in serious doubt. The new minority issue, and the one staunchly supported by never more nor less than about one-third of the Senate, concerned registration and licensing of firearms and owners. This battle for even stricter measures was also lost, as the battle for long gun prohibition was lost earlier. The assassination of another Senator or President may have altered votes once again, however.

It is interesting to note that the final vote on H.R. 17735 included 17 Nays. This and other information presented here indicates a number of Senators were unalterably opposed to restrictive gun legislation. Thus, in addition to the bloc of 30 or so Senators strongly advocating restrictive measures, even in the form of registration, there is also a bloc of staunch opponents. In the middle is a bloc which apparently switched views from May to September.

Several questions are suggested. Which Senators formed which blocs? How may the blocs and Senators be differentiated? Were the voting patterns of Senators on firearms legislation consistent? The rest of this chapter and all of the next concern this question.

## An Analysis of Senate Firearms Roll Calls

Four of the fifteen Senate roll calls dealt in various fashion with the issue of banning long guns from the mails and from interstate commerce in general (Roll Calls #38, #39, #40, #66). Three of these roll calls were taken on May 16 and the fourth (#66) on September 18. Regional and party patterns are discernable on the first three roll calls and to some extent on the fourth. Numbers 38 and 39 sought to ban mail order shipments of long guns altogether (#39 allowing states to exempt themselves from such restrictions). Roll call #40 required a buyer through the mails to submit an affidavit stating no local or state law was being violated by receiving the long gun.

The votes on these three measures were nearly identical, and even though the Administration supported adding long guns to the Omnibus Crime Bill, a majority of both parties refused the measure. Roll call #39 is typical of this action as 37 out of 60 Democrats and 23 out of 33 Republicans opposed the measure. Deeper analysis discloses 17 of the 37 Democratic nay votes were from the South. This, however, leaves only a bare majority of non-southern Democrats supporting long gun restrictions. Analysis of roll calls #38 and #40 reveals a similar pattern.

The apparent importance of regionalism as a distinguishing variable on long gun restrictions extends far beyond the South. Table II-1 presents the regional voting patterns for roll call #39. A listing of the states included in each region appears in Appendix B.

ABLE II-1.--Regional Voting on Roll Call #39.

| Region | Yea | Nay |
|---|---|---|
| New England | 9 | 1 |
| Mid-Atlantic | 5 | 3 |
| East North Central | 5 | 4 |
| West North Central | 4 | 9 |
| Solid South | 3 | 17 |
| Border States | 4 | 4 |
| Mountain States | 1 | 15 |
| Pacific States | 1 | 5 |
| External States | 1 | 2 |
| | 33 | 60 |

v England gives over-whelming support for restrictions
long guns with moderately strong support coming from
e Mid-Atlantic and East North Central states. Beyond
is Eastern area, however, support erodes rapidly,
ecially in the South and the West. Opposition is
ongest among the Southern, the Rocky Mountain, and the
cific state Senators who, with only a few exceptions,
e nay on the issue. States in the Central North West
e also opposed to restriction. Interestingly, many of
se same states have or have had provisions in their
ate constitutions authorizing an interpretation of an
ividual right to keep and bear arms. (More will be
d on this in Chapter V).

These regional patterns are altered somewhat by
l call #66 taken in September on the same issue of
g gun restrictions. In this instance, three and one-
f months after Robert Kennedy's death, restrictions
the interstate shipment of long guns passed over-
lmingly; the relative structure of opposition among
e regions remained remarkably the same, while changing
thers. No opposition is recorded to H.R. 17735 among
tors from New England, the Mid-Atlantic States, the
North Central States, or from the Border States. The
South, and the Rocky Mountain States, however, each
eight opposing votes, accounted for 16 out of the 21
votes cast on H.R. 17735. Three opposing votes from
West North Central States and one each from the

Pacific and External States accounted for the rest of the opposition.

More Democrats (16) opposed H.R. 17735 than did Republicans (5), even though the Administration gave the measure full support. This is not surprising, however, as many Southern Democrats vehemently opposed gun restrictions in any form. Additionally, several Democratic Senators from the Rocky Mountain and Western states reported (on the Senate floor) significant, strong, and definite constituency opposition to any form of gun restrictions. Except for the South, Republican and Democratic opposition is fairly evenly split and limited to the Rocky Mountain States and the North West Central States. But Southern opposition, along with Rocky Mountain opposition, proved generally to be the most vehement of the session.

Aside from the usual complaints that gun restrictions would not do anything to solve the problems of crime and violence, Southern opinion was out in force protesting that restrictions were a step away from confiscation and an eventual police state. Strom Thurmond (S.C.) expressed this view on September 18.

> Mr. President, I am opposed to Federal regulation of arms and Federal licensing of gun owners. To my way of thinking, we need effective law enforcement at every level of our Government rather than a proliferation of gun laws directed primarily at law abiding taxpaying citizens in this great Nation. . . . Law-abiding citizens should be allowed to keep guns in their homes for the protection of their families and property. Existing State and local laws should be enforced vigorously. . . . A Federal system of gun registration and licensing would require a large

Federal police force. A Federal police force could lead to a police state.[46]

James Eastland (D Miss.) seems almost as certain as Thurmond that doom would befall the Nation.

In my judgment, the supporters of strict Federal gun registration and licensing laws and the supporters of Federal gun confiscation and gun legislation realize that they will not get such legislation enacted in this session of Congress. However, they are attempting to curb or eliminate the sale of weapons to private citizens by making the criminal liabilities of gun dealers so broad, vague, and nebulous as to discourage and deter any person from engaging in this lawful business. . . . Mr. President, I voice my strong opposition to this amendment and to any bill which could and inevitably would limit the right of our citizens to keep and bear arms. I do so for many reasons: First, such laws would be merely an opening wedge to the restriction and licensing of all weapons; second, it would be the first step toward a disarmed citizenry, and, finally, a disarmed citizenry would mean that Socialists and criminals will control this Nation.[47]

Comments from Rocky Mountain State Senators seemed, on balance, more restrained than in the South. Although no systematic content analysis was made of the differences, for reasons already given, Western opposition in debate was less politically oriented than Southern comments. That is, the issue was not so much whether a police state was around the corner, but rather one of deciding whether gun restrictions would actually aid in reducing the crime problem, while not unduly penalizing the sportsman. Peter Dominick (R Colo.) is representative of this approach in the debates of September 18 as is Alan Bible (D Nev.).

Dominick: I have been old time and time again by people in my State, and people from other States who have written me, that if the pending measure is passed, the situation will be very similar to

that which was experienced during prohibition times. The crooks will continue to operate and get their guns anywhere they can. They will get guns by breaking into stores and stealing them, as they are doing at the present time.

ible: I am unalterably opposed to Federal registration of firearms and Federal licensing of the thousands of law-abiding people in my State of Nevada and the millions of sportsmen, hobbyists, and other responsible, law-abiding citizens throughout the Nation who cherish their right to keep arms without this kind of interference from the Federal Government. . . . Firearms controls can be dealt with effectively by the States and cities of the country, depending on the special problems and conditions confronting each of them.[48]

The registration of firearms was considered in four parate roll calls (#61, #62, #63, #64). All of these ll calls took place on September 18 leaving no convenient portunity for analysis of the issue over time. It is of rked interest, however, that registration was given no aring in Senate Committees or in the Senate chamber ring May. But two weeks after Kennedy's assassination least three separate bills were placed before the ate on the topic of registration-licensing.

The substance of roll calls #61, #62, #63, and #64 e discussed earlier in this chapter. Roll calls #61, , and #63 all dealt with various measures for the istration-licensing of all weapons, whereas roll call restricted licensing to hand guns. The party and ional patterns described in the analysis of long gun calls held in the analysis of registration roll calls. ed, regional patterns seem even more pronounced in respects. The South was unanimously opposed to

registration restrictions, while the Rocky Mountain and Central North West states offered overwhelming opposition (5-23). Support eroded somewhat (8-3) in the New England states since the May long gun vote, but majority support for registration was clear as it was in the Mid-Atlantic and Central North Eastern States. Roll call #64 (hand gun licensing) produced two Southern defections from the unanimous vote of opposition recorded on other registration-licensing measures. Smathers of Florida and Yarborough of Texas both favored the hand gun licensing. Neither Yarborough nor Smathers are considered entrenched conservatives, but with the exception of Yarborough's pro-labor stands neither are blazing liberals either. Their reasons for switching were not recorded in the Senate debate.

In the Midwest, Bayh (D Ind.) and Griffin (R Mich.) both switched earlier registration opposition to support of hand gun licensing. Actually, Griffin had voted in favor of Jackson's Roll Call (#62) and Brooke's Roll Call (#63), both of which were attempts at gaining support for weakened registration proposals; Bayh had not favored either. The reasons for Griffin's switch are not at all clear, although his counterpart, Hart (D Mich.), consistently supported registration proposals. Both men, however, did not join into the debate of September 18, except for Griffin to rise in support of roll call #64. The statestate hunting industry in Michigan, as in many of the

Western states, is a large and profitable business; but there is also Detroit with all of the concomitant problems of urban crime and violence. The cross-pressures from these two sources likely produced a decision not to raise more fuss than necessary. Additionally, Griffin's out-state electoral support probably accounts for his incon-sistent behavior in relation to registration. Much of his interpretation is conjecture, however.

A particularly close vote came on Roll Call #59 which Dodd sought to tighten restrictions on qualifi-cations for licensed firearms dealers. Again, opposition chiefly centered in the Rocky Mountain and Southern states. t important switches were made in the other Regions from position to support.

Murphy's (R Calif.) amendment (Roll Call #65) uld have made importation of firearms immensely easy, l thus produced disastrous consequences for the intent of pponents on H.R. 17735. The issue, made clear by Mur- and Hansen (R Wyo.), was that the bill was meant to p open to hunters and collectors the trade in foreign dware. Dodd reminded the Senate that 80 per cent of guns used in crime were foreign made[49] and Pastore R.I.) accused Murphy of representing the special inter-s of arms importers. Joining Murphy and Hansen in ing for the bill were Curtis (R Neb.), Hickenlooper Iowa), Hruska (R Neb.), Thurmond (R S.C.), and Bayh

(D Ind.). The key to understanding some of the seven votes may lie with Pastore's accusation.

## Guttman Scale Results

The technique of Guttman scaling was employed in the analysis of firearms roll calls to provide answers to two questions: In what respect, or along what dimension, were the gun bills related? Second, would Guttman scaling demonstrate the existence of fairly consistent voting blocs on firearms? The initial hypotheses regarding this latter matter had been rather simplistic. First it was assumed there were two stable but rather small groups of senators who were always at opposite ends in terms of firearms roll calls. The one interesting exception to this proved to be roll call #65 on Murphy's amendment. The overwhelmingly lop-sided vote on this roll call is the only one on which at least 20 per cent of the Senators were not in the minority category. The middle group, rather large in size, was moderately inclined toward some division in gun legislation. The inference for this assumption had largely been drawn from a reading of the Congressional Record where it appeared a small minority of vocal Senators on both sides consistently held sway in the debate. This should normally be expected as Senate debate and voting goes, but the volatility of the debate and the controversy engendered between these groups was a small matter. Indeed, both sides insisted the very basic free nature of a democratic society was being

threatened; one side insisting that gun curbs would produce a police state, and the other side insisting that the lack of curbs would return us to the lawless state of the jungle.

On the matter of scaling roll calls along some dimension, the initial statement of hypotheses was also simplistic: the dimension of the scale was in terms of what was being regulated and in what manner, or in terms of "severity of restrictions." Specifically, it was hypothesized that restrictions on hand guns would prove to be least objectionable while registration requirements would prove to be most objectionable.

The theory behind Guttman scaling has already been discussed at some length. Some of the most severe restraints on the cumulative scaling of firearm roll calls, however, were not theoretical but rather machine oriented. The CDC 3600 computer using the BMD 05S program for Guttman scaling was applied to the firearms roll calls.[50] Five of the fifteen firearms roll calls and 30 of the 101 senators were dropped from the analysis for the time being. The five roll calls were dropped for a variety of reasons. First, roll calls #39, #40, and #41 were dropped because they essentially duplicated roll call #38 on banning long guns from the mails. Prior analysis had demonstrated voting alignments were similar among all four and, thus, nothing would be gained by the inclusion of all of them. Roll call #38 was chosen from among this group for two

reasons: (1) it contained the least absences of any of the four; (2) it stated most clearly the issue of banning long guns from the mails.

Roll call #60 was omitted from the Guttman scale as it was simply a procedural question concerning reconsideration of Dodd's Amendment (Roll Call #59) which is retained in this analysis. Roll call #65 was also dropped as its margins were too dispersed to have any likely payoff in the analysis.

It was decided that all other roll calls would be kept. Torgerson suggests, as noted earlier, that at least ten items should be used when the responses are dichotomous. The decision on retaining all of the registration roll calls was made with this in mind but also because some subtle substantive differences among the four registration roll calls offered hope for discriminating among participants. Roll call #12 which would have authorized a significant reduction in appropriations to the National Board for the Promotion of Rifle Practice, was also retained. The National Rifle Association was the chief inheritor of free ammunition supplied through the Board. Although roll call on this topic was not manifestly concerned with gun restrictions, many Senators frequently complained about the influence of the NRA, and as a curiosity item, it seemed reasonable to explore the relationship between "giving money to the NRA" and opposing gun restrictions.

Cutting 30 Senators from the analysis poses a more erious dilemma than dropping roll calls. The problem ere was computor-induced; that is, the appearance of bsences created not only a problem of scoring but essen- ially changed the response patterns from dichotomous to richotomous. The implications of this were disastrous n terms of computor time and cost as time requirements ith trichotomous response patterns increase exponentially ith the addition of each subject and variable. A deci- ion was made to temporarily discard any Senator who was bsent during any one of the ten chosen roll calls. uckily, this only involved 30 of the 101 Senators who sat uring the 90th Congress. An initial Guttman scale using ne 71 remaining respondents was constructed.

The respondents who had absences were placed into ne initial computor-constructed scale by hand. At this int the problem of scoring absences became an irritation. nsider the following example, for instance, where 1 is yes vote, 2 is a no vote, and 0 is absent. Assume ten ll calls have been arranged according to the decreasing mber of yea votes in each roll call (the primary pro- dure used in Guttman scaling to order items).

| Roll Call # | 1 | 6 | 8 | 2 | 9 | 7 | 5 | 4 | 3 | 10 |
|---|---|---|---|---|---|---|---|---|---|---|
| ator X's Vote | 2 | 2 | 2 | 0 | 2 | 1 | 1 | 1 | 1 | 1 |

problem is obvious: how do we score roll call #2 for tor X? In spite of the absence it is apparent support and opposition begins between roll calls #9 and #7.

The assumption is made that if he were present he would have voted "nay" on roll call #2. But the problem of absence becomes particularly distasteful when absences intervene between support and opposition scores.

| Roll Call # | 1 | 6 | 8 | 2 | 9 | 7 | 5 | 4 | 3 | 10 |
|---|---|---|---|---|---|---|---|---|---|---|
| Senator Y's Vote | 2 | 2 | 2 | 2 | 0 | 1 | 1 | 1 | 1 | 1 |

Should roll call #9 be recorded yes or no? This problem has been dealt with in a variety of ways. Vanderlik suggests assigning a scale value of .5 to the absent category and a scale value of 1 to each yea category.[51] However, as long as the number of categories is even, I prefer to assign the value of the modal category. In this case, roll call #9 would be assigned a 1. In case of two absences intervening at the cutting point, and there being no modal category, the zeroes would each be assigned one of the two possible values.

As absences become more numerous, problems of value assignment become difficult and hazardous. For this reason, Senators with particular kinds of absence patterns were permanently discarded from the Guttman scale: (1) they failed to vote on at least half of the ten roll calls; (2) they did not vote on any of the September gun roll calls; or (3) they did not vote on any of the registration bills. Seventy-one Senators had no absences and thus qualified for inclusion in the computor constructed scale. Of the remaining thirty, eighteen met all of the above "absence" requirements and thus were placed in the

Guttman scale by hand; twelve were permanently excluded. In the end, therefore, 89 out of 101 Senators were included in the Guttman scale. Of the twelve who were not, nine missed more than half of the selected roll call votes, one (Goodell) missed the entire Second session until September, two others missed important votes on the registration issue. Five of the excluded twelve would likely have opposed restrictions while four would have shown support, but this is mostly guess work based on a limited number of votes.

The Guttman scale constructed by the CDC 3600 computor accomplished three tasks: (1) it arranged the roll calls in order of the proportion of votes that are yea; (2) it arranged Senators in terms of decreasing support for the ten roll call votes; and (3) it computed CR and MMR statistics. CR has already been discussed. MMR stands for Minimal Marginal Reproducibility; it is defined as the average number of modal responses for the set of items under investigation.[52] The larger the gap between MMR and CR, the better, as it reduces the chance that a high CR is due to spurious or random causes.

The Guttman scale using 71 Senators produced a CR of .93944 (.94) and an MMR of .62113 (.62); the difference between CR and MMR is .32 which is certainly acceptable. Adding the eighteen additional Senators by hand did not appreciably affect values of CR and MMR. Rounded to hundreths, CR remained at .94 and MMR at .62.

The order produced by the Guttman scale for the ten roll calls was, going from highest to lowest in proportion of yea votes:

TABLE II-2.--Order of Firearms Roll Calls in Guttman Scaling.

| Roll Call # | Description |
|---|---|
| 66 | H.R. 17735-Banning inter-state mail order of long guns--September. |
| 42 | Handguns purchased through the mail on submission of affidavit. |
| 58 | Excluding shotgun, rifle or 22 cal. ammunition from provisions. |
| 59 | Tightening qualifications for licensed dealers. |
| 62 | States penalized for not proposing own registration laws. |
| 64 | Licensing of concealable weapons. |
| 38 | Add long gun coverage to Title IV--May. |
| 63 | Collect certain information on all firearms. |
| 61 | Registration licensing of all firearms at Federal level. |
| 12 | Reduce support for National Rifle Practice Board. |

Several interesting findings are suggested by this order of roll calls. The position of roll call #66 should be compared with that of roll call #38. Both bills essentially call for the regulation of the same items (long guns) and in the same manner (banning from the mails and restricting of interstate purchases); yet, bills calling for registration-licensing separate the two in scale position. What seems equally important is that thirty-two

Senators switched from opposition to support while voting on essentially identical bills. This suggests that degree of restriction is not the only dimension at work in the scale. Time and historical events seem important as well, for the two bills are separated by four months and Kennedy's assassination.

A small stretch of the imagination may be applied toward extending the time argument to roll call #12 taken in August of 1967. Roll Call #12 sought to decrease the funds available for free ammunition, yet it received the least support of any of the Senate roll calls on firearms. It may well be that the vote on this bill was taken at a time when the issue of firearms restrictions and the furtherance of the use of firearms was no large issue. But it may also be that few Senators wished to openly antagonize the National Rifle Association. One thing is clear at least, from August 1967 through September 1968 the issues before the Senate became more radical and the support for these radical positions became more generous.

Of the Bills decided in 1968, Tydings amendment (Roll Call #61) which called for registration-licensing of all firearms received the least support. This is not surprising since it was the most comprehensive bill in terms of what was being regulated, and the most radical in terms of the mode of regulation. Actually, the difference between this roll call and roll call #63, in terms of proportion of the total votes that were yes, is zero, as

both record 31 yea votes (N of 89 Senators). But this is not surprising since #63 changed the word "registration" to the phrase "collect certain information" and left the rest of #62 relatively unchanged. Their similarity vis-a-vis the scale reflects their similarity in substance. The other registration bills differ in a number of substantive respects; but differences on the scale, although present, are small. Roll call #62, placing the burden for registration on the states, and roll call #64, requiring the licensing of hand guns are only slightly more popular forms of registration (36 and 37 yea votes respectively). The conclusion may be drawn, but only very weakly, that the degree of restriction advocated in roll call #64 was less than that in #61. Also, it seems that requiring state registration rather than Federal registration was a slightly less severe form of restriction.

What appears more important about the four registration bills is the over-riding importance of their similarity as registration bills. The number of yes votes in the four registration bills only range from 31 to 37; in the Guttman scale, four scale positions for these roll calls include only seven Senators. What this means is that the registration bills offer very little discriminating value. Indeed, the over-riding importance of the concept of registration in producing consistently yes or no voting patterns seems clear. Yet, a reading of the amendments indicates large substantive differences:

ere was variation in what was being regulated (hand guns
· all guns) and there was variation in who was doing the
:gulation (Federal or State). But there was no varia-
:on in the mode of regulation as all four bills proposed
:gistration-licensing. This supports, and clarifies
ırther, one of the initial hypotheses stated earlier:
)pponents and proponents formed fairly consistent groupings
n the registration issue, with little vote switching,
ven though the content of the registration bills differed
ubstantially in many respects.

Roll calls #42 and #58 presented a problem in the
nalysis as they both were amendments from opponents of
un restrictions; all other items in the Guttman scale
ere offered by supporters of gun restrictions. In order
or yes votes to mean the same thing throughout the scale,
.e., favoring gun restrictions, the votes and meanings
f roll calls #42 and #58 were reversed or reflected. Roll
ıll #42 would have severly circumscribed the hand gun
ovisions in Title IV of the Omnibus Crime Bill. A
flected yes vote, therefore, was in opposition to cir-
mventing Title IV provisions. Roll call #58 presented
e same mechanical problem but substantively sought to
rcumvent regulation features of H.R. 17735 by eliminating
il order restrictions on just about all types of ammuni-
on. In terms of scale position and proportion of yes
es, #42 and #58 are very similar. These votes were
en four months apart, however, and differed substantively.

Their closeness on the scale is explained not so much by their substance but by the date of the roll call. That is, roll call #42, which was taken in May refused to weaken handgun proposals, while roll call #58, taken in September, refused to weaken long gun proposals. If both roll calls had taken place in September the expectation is that the amendment to weaken hand gun provisions would have met with much stronger resistance than the one aimed at weakening long gun measures. As it was, opposition to the two proposed amendments was similar in overall proportion of yes votes and in who was voting yes.

There are some exceptions to this last point, however. Byrd (D Va.), Mansfield (D Mont.), and Boggs (R Del.) all voted to slacken hand gun requirements, but opposed efforts at watering down long gun provisions, as did Morse (D Oregon) and Hill (D Ala.). On the other hand, Smathers (D Fla.), Jackson (D Wash.), McGee (D Wyo.), Fulbright (D Ark.), McClellan (D Ark.), and Allender (D La.) were opposed to hand gun revisions but favored down-grading long gun measures. All of these discrepancies are scale errors as they depart from what should have been consistent voting, given the scale arrangement. The first group (Boggs, etc.) should have opposed both attempts at limiting coverage; the second group (Smathers, etc.) should have favored both attempts. The switch by the first group is likely to be explained in terms of the net change in Senate opinion between May and September;

whereas, this group probably questioned the necessity of hand gun restrictions in May, there was no question of the need for both handgun and long gun provisions in September. The second group was generally more opposed to various gun restrictions than the first as measured by Guttman scale scores; additionally, the great importance attached by the NRA and other opposition groups to any long gun provisions is reflected in these votes. In effect, this second group did not recognize the time dimension recognized by the scale. No errors appear among those with the highest and lowest Guttman scale scores; all of the departures from the expected are among Senators with medium scores or medium high opposition scores.

## A Look at the Scale Extremes

The time dimension seems to be as important in this Guttman scale as the degree of restriction dimension; both seem to be useful toward explaining the relative array of roll calls and Senators. It is also interesting to note that the assumption there were two stable minorities unalterably supporting and opposing gun restrictions, is confirmed by the Guttman scale. Indeed, fifteen Senators voted nay on every restriction bill, while another twenty-two voted nay on everything except H.R. 17735. On the other hand, fourteen Senators supported every restriction bill while eight more gave affirmative support on nine of the ten bills. A review of the states and parties for these opposing forces is interesting.

TABLE II-3.--Oppose All Gun Bills.

| State | Party | Name |
|---|---|---|
| Utah | R | Bennett |
| Utah | D | Moss |
| N.D. | D | Burdick |
| N.D. | R | Young |
| Miss. | D | Eastland |
| Miss. | D | Stennis |
| S.C. | R | Thurmond |
| S.C. | D | Hollings |
| Idaho | D | Church |
| Ariz. | R | Fannin |
| Ga. | D | Russell |
| Mont. | D | Metcalf |
| Nev. | D | Bible |
| S.D. | R | Mundt |
| Alaska | D | Gruening |

TABLE II-4.--Oppose All Except One Gun Bill.

| State | Party | Name |
|---|---|---|
| Neb. | R | Hruska |
| Neb. | R | Curtis |
| Colo. | R | Allott |
| Colo. | D | Dominick |
| Wyo. | D | McGee |
| Wyo. | R | Hansen |
| Tenn. | R | Baker |
| Texas | R | Tower |
| Calif. | R | Murphy |
| Idaho | R | Jordan |
| Ore. | R | Hatfield |
| N.H. | R | Cotton |
| Kan. | R | Carlson |
| Nev. | D | Cannon |
| Ark. | D | McClellan |
| Ark. | D | Fulbright |
| Ala. | D | Sparkman |
| Ala. | D | Hill |
| N.C. | D | Ervin |
| N.C. | D | Jordan |
| La. | D | Ellender |
| Ga. | D | Talmadge |

TABLE II-5.--Support All Gun Bills.

| State | Party | Name |
|---|---|---|
| R.I. | D | Pastore |
| R.I. | D | Pell |
| Mass. | R | Brooke |
| Mass. | D | Kennedy |
| Md. | D | Tydings |
| N.J. | R | Case |
| Hawaii | D | Inouye |
| Conn. | D | Dodd |
| N.H. | D | McIntyre |
| Minn. | D | Mondale |
| Pa. | D | Clark |
| N.Y. | R | Javits |
| Ohio | D | Young |
| Wisc. | D | Nelson |

TABLE II-6.--Support All but One Gun Bill.

| State | Party | Name |
|---|---|---|
| Mich. | R | Griffin |
| Mich. | D | Hart |
| Calif. | R | Kuchel |
| Md. | D | Brewster |
| N.J. | D | Williams |
| Hawaii | R | Fong |
| Conn. | D | Ribicoff |
| W. Va. | D | Randolph |

There are obvious party and regional patterns in this display of extremes. First, those who opposed all restrictive gun bills were all from rural states; five were Republican and nine were Democrats; the South, the Rocky Mountain states and the Dakotas account for all these votes. The regional pattern offers nothing new, but the party alignments do; even after subtracting Southern Democrats and Republicans, more Democrats opposed all gun bills than Republicans. However, table II-4 questions the Democratic majority, as the Democrats have only a three vote majority for the two strongest opposition scores on the Guttman scale. However, the Democratic majority is pronounced at the other end of the scale where 16 out of 22 of the staunchest supporters of gun restrictions are Democrats. No Southerners are among the strong supporters and only one Rocky Mountain Senator can be found in this group. Most of the support among these groups is from the East, East North Central, and New England States.

No doubt, both party and region are associated with gun voting, but there is also a high association between party and region. Which is the more important variable? One method available for examining this question is to see if Senators from the same state and different parties vote differently.

With three exceptions, the differences between parties, within states, is minimal. The Guttman Scale scores range from 1-11; ruling out New Hampshire, Tennessee,

TABLE II-7.--Party and State in Firearms Voting.

| State | Senator | Party | Scale Score | Difference |
|---|---|---|---|---|
| rizona | Hayden | D | 9 | 2 |
| | Fanin | R | 11 | |
| lawaii | Inouye | D | 1 | 1 |
| | Fong | R | 2 | |
| daho | Church | D | 11 | 1 |
| | Jordan | R | 10 | |
| laine | Muskie | D | Absent | ? |
| | Smith | R | 2 | |
| lassachusetts | Kennedy | D | 1 | 0 |
| | Brooke | R | 1 | |
| ichigan | Hart | D | 2 | 0 |
| | Griffin | R | 2 | |
| ew Hampshire | McIntyre | D | 1 | 10 |
| | Cotton | R | 11 | |
| ew Jersey | Williams | D | 2 | 1 |
| | Case | R | 1 | |
| orth Dakota | Burdick | D | 11 | 0 |
| | Young | R | 11 | |
| regon | Morse | D | 9 | 1 |
| | Hatfield | R | 10 | |
| ennsylvania | Clark | D | 1 | 1 |
| | Scott | R | 2 | |
| outh Carolina | Hollings | D | 11 | 0 |
| | Thurmond | R | 11 | |
| uth Dakota | McGovern | D | 10 | 1 |
| | Mundt | R | 11 | |
| nnessee | Gore | D | 2 | 8 |
| | Baker | R | 10 | |
| xas | Yarborough | D | 6 | 4 |
| | Tower | R | 10 | |
| ah | Moss | D | 11 | 0 |
| | Bennett | R | 11 | |
| oming | McGee | D | 10 | 0 |
| | Hansen | R | 10 | |

and Texas, the thirteen remaining states have an average between party scale difference of only .62 scale positions. It also continues to be obvious that the major differences in scale scores can be reported by region but it is also important to note that comparisons between parties within individual states show Republicans taking stronger opposition stands more often than Democrats; Democrats are more opposed than Republicans in two states, while Republicans are more opposed in seven states.

New Hampshire, Texas, and Tennessee present the only sizable differences between parties within states. These apparent anomolies are not entirely explainable although some interesting distinctions may be drawn. First, the Republicans in all three states were more opposed to gun restrictions than the Democrats. Second, the Congressional Quarterly Almanac (1968) considers the Republican Senator in each case more "conservative" on social and economic matters than the Democrat, but this is generally the case in respect of Republicans and Democrats from the same state in any event.

## Summary

The great bulk of firearms debate and voting in the 90th Congress took place in 1968 between May and September. During this period the provisions of bills and amendments on gun regulation became more radical and the Senate support for these radical positions more generous. A great deal of this changing Senate opinion on regulations

related to the assassinations of King and Kennedy as
ese tragedies seemed to play no small part in extricat-
ig various firearms bills from the seemingly interminable
bates within Senate committees. Even after the assassi-
tions, however, Southern and Western opposition to gun
gislation remained firm as Western Senators were con-
rned that gun regulations would penalize the law-abiding
ortsman, and Southern Senators were convinced that gun
gulations would lead to confiscation and an eventual
lice state. While Southern and Western Senators con-
stently opposed all forms of regulation, Eastern and
dwestern Senators gave nearly unanimous support to mail
der prohibitions, while being much less supportive of
gistration requirements.

There is no apparent relationship between firearms
ting and partisan identification. Although Republicans
nerally record higher opposition scores than Democrats,
r greater differences in gun voting records occur among
ions than between the two parties. Whatever weak rela-
nship exists between party and gun voting, it is likely
ributable to the regional nature of party support.

FOOTNOTES--CHAPTER II

[1]Duncan MacRae, "Some Underlying Variables in egislative Roll Call Votes," Public Opinion Quarterly Summer, 1954), p. 181.

[2]Lee F. Anderson, Meredith W. Watts, Jr., and llen R. Wilcox, Legislative Roll Call Analysis (Evanston, llinois: Northwestern University Press, 1966), p. 6.

[3]Ibid., pp. 5-6.

[4]John C. Wahlke, Heinz Eulau, William Buchanan, d LeRoy C. Ferguson, The Legislative System: Explora- ons in Legislative Behavior (New York: John Wiley and ns, Inc., 1962), p. 239.

[5]MacRae, op. cit.

[6]David B. Truman, The Congressional Party: A se Study (New York: John Wiley and Sons, Inc., 1959), . 326-329.

[7]Duncan MacRae, Dimensions of Congressional Voting erkeley: University of California Press, 1958), p. 301.

[8]Following the death of Robert Kennedy and its st immediate impact, more than one Senator rose to cau- on the Senate against voting for gun restrictions in e heat of the moment.

[9]Warren S. Torgerson, Theory and Methods of Scaling ew York: John Wiley and Sons, Inc., 1958), p. 324.

[10]Anderson, op. cit., see pp. 78-84 for a short scussion of selection criterion involving problems of enteeism.

[11]The raw data consisting of short substantive des- ptions of each roll call, as well as the voting records each Senator and Representative for each roll call, was plied through the Inter-University Consortium for Poli- al Research, Ann Arbor, Michigan. All analyses using l calls made use of this Inter-University Consortium data.

[12]Anderson, op. cit., p. 40.

[13]Ibid., p. 43.

[14]Ibid., p. 43.

[15]Arend Lijphart, "The Analysis of Bloc Voting in
he General Assembly," American Political Science Review, Vol.
57 (December, 1963), pp. 902-917. The Agreement Computor
rogram used here is largely the product of this article.
ouble abstentions are treated as perfect agreement between
wo representatives in the same fashion that double yeas
nd double nays are. The reasoning is that both repre-
entatives agree that both sides to the argument have
erit. Of course, there is no indication of whether or
ot both representatives agree on what specifically is
ttractive about both sides.

[16]Anderson, op. cit., p. 45.

[17]George A. Ferguson, Statistical Analysis in
sychology and Education (New York: McGraw-Hill Book
ompany, 1966), pp. 234-236.

[18]See for example Glendon Schubert, Quantitative
alysis of Judicial Behavior (Glencoe, Illinois: The
ee Press, 1959), Chapter 5.

[19]Ibid.

[20]Marvin E. Shaw and Jack M. Wright, Scales for
e Measurement of Attitudes (New York: McGraw-Hill Book
mpany, 1967).

[21]Samuel A. Stouffer, Louis Guttman, Edward A.
chman, Paul F. Lazarsfeld, Shirley A. Star, and John A.
uusen, Measurement and Prediction (Princeton: Princeton
versity Press, 1950), p. 51.

[22]Harold J. Spaeth and David J. Peterson. "The
ensionality of Civil Liberties Decision Making: A
gitudinal Analysis," Mimeographed paper, 1967. Forth-
ing, in the Midwest Journal of Political Science,
ust, 1971.

[23]Jack Vanderslik, Constituencies and Roll Call
ing: An Analysis of the House of Representatives for
88th Congress, unpublished dissertation in the Depart-
t of Political Science, Michigan State University, 1967,
46.

[24]Torgerson, op. cit., p. 26.

[25]Ibid., pp. 301-302.

[26]Vanderslik, op. cit., p. 46.

[27]Torgerson, op. cit., p. 318.

[28]Vanderslik, op. cit., p. 47. Vanderslik reports
hat perfect scales are seldom found. He quotes Schubert
s saying he made a "lucky hit" once and found a perfect
cale.

[29]Torgerson, op. cit., p. 319.

[30]L. Guttman, "The Cornell Technique for Scale and
ntensity Analysis," Education Psychological Measurement,
olume #7 (1947), pp. 247-280.

[31]Torgerson, op. cit., p. 323.

[32]Allen L. Edwards, Techniques of Attitude Scale
onstruction (New York: Appleton-Century-Crofts, Inc.,
957), p. 191.

[33]Ibid., p. 192.

[34]Torgerson, op. cit., p. 324.

[35]Congressional Quarterly Service, The Congressional
arterly Almanac--1968 (Washington: Congressional Quarterly
c., 1969), p. 231.

[36]Ibid., 232.

[37]Congressional Record: United States Senate,
lume 114, Number 152, September 18, 1968, p. S10925.
so see the debates on Firearms in the Congressional
cord--Senate, for May 16, 1968. Dodd and others make it
ear that the immediate and most forceful intent of the
gislation was, indeed, directed toward urban areas.
so, the Dodd amendment of May 16 would have made it more
fficult for persons under 18 to purchase a long gun.

[38]Congressional Record: United States Senate,
ume 114, Number 84, May 16, 1968, p. S5682.

[39]Congressional Quarterly Almanac, op. cit., p. 236.

[40]Ibid., p. 558.

[41]Congressional Record: United States Senate,
ume 114, Number 148, September 12, 1968, p. S10699.

[42]Congressional Record: United States Senate,
ume 114, Number 152, September 18, 1968, pp. S10917-
18.

[43]Ibid., p. S10934.

[44]Ibid., p. S10934.

[45]Ibid., p. S10968.

[46]Ibid., p. S10928.

[47]Ibid., p. S10931.

[48]Ibid., p. S10926.

[49]Ibid., p. S10981.

[50]W. J. Dixon, ed., BMD: Biomedical Computer Programs (Los Angeles: Health Services Computing Facility, Department of Preventive Medicine and Public Health, School of Medicine, University of California).

[51]Vanderslik, op. cit., pp. 63-64.

[52]Edwards, op. cit., p. 193.

## CHAPTER III

## FIREARMS ROLL CALLS AND OTHER ISSUES

One of the hypotheses stated in the introduction of this study was that roll call divisions on firearms would be similar to roll call divisions on certain selected issues. That is, the groups which tended to vote on one side or the other on the selected issues would also, as groups, vote on one side or the other in terms of firearms roll calls. The question remains as to whether this is actually true. The question must also be posed as to which groups match with which sides.

Party may correlate highly with many and perhaps all of these issue areas. Thus, the additional information uncovered by analyzing the issues irrespective of party may be small. However, at least two concerns direct that the analysis should be attempted anyway. First, votes on firearms were not strictly partisan affairs; perhaps an analysis of specific issue areas may isolate additional information on the split in firearms votes. Secondly, although many issues are associated with party voting

alignments, it would be useful to know which of these issues are more related to the firearms votes than others.

Answers to these questions will be sought by using two techniques. The first technique involves forming four cell contingency tables among the sixty-six selected roll calls; the purpose is to determine whether roll calls on apparently different issues produce similarities in voting patterns. $X^2$ and C are reported for these tables where appropriate.

The Agreement Index (AI), described earlier, will also be used in conjunction with a clustering program to determine in what manner all sixty-six roll calls group or "cluster." That is, which roll calls, in which combination, produce high agreement in the voting patterns of the Senators. It is not asserted, here, that AI and may be used to verify each other. They are simply two techniques used separately to produce additional information.

Policy related criteria have already been described that determined which non-firearms roll calls were to be selected. The policy areas selected were social welfare roll calls, roll calls on civil disturbances, roll calls on military expenditures, roll calls on legal procedures, roll calls on relations with communist nations, and economic related roll calls. Included also, were a limited number of roll calls on fair-housing provisions, "states rights" issues, and Congressional redistricting.

The titles of these policy areas are not intended to be precise but rather imprecise, offering convenient hooks on which a number of loosely related roll calls may be hung. It is perhaps more accurate to say the roll calls define the title rather than vice versa. Nevertheless, it ought to become clear momentarily that each title denotes a particular kind of roll call, although the intuitive and subjective process of categorizing has resulted in some forcing.

## Categorizing the Roll Calls

The category of gun votes has already been given ample attention. The next largest category of roll calls were those falling under social welfare legislation. Most of these roll calls deal with appropriations or approval of Johnson's "Great Society" welfare programs. The following roll calls are included in that category: , #15, #16, #17, #22, #23, #24, #32, #36, #51, #55. A full description of each of these roll calls (as well as those following) is given in Appendix A. A wide variety of issues are found under the social welfare heading, including roll calls on appropriations for the Teachers' corps, monies for the Rent Supplement Program, grants to private industry to train the disadvantaged, monies for the Headstart Program, requirements to employ low-income persons, and liberalized earnings tests for welfare recipients. Social welfare may include a complex universe of issues: medicare, social security, aid to the poor,

nemployment insurance and so on. Deliberately, and as
ot to over-complicate the analysis, social welfare here
defined in terms of those programs primarily addressed
the poor. On the normative side, the issue is whether
ciety through government should provide for the materi-
ly disadvantaged. Many of these bills contain appro-
iation measures and thus it is difficult to separate
e issues of welfare programs from the issue of money.
t there is no necessary reason that they should be; for
lfare is, here, the material support of a part of society
all of society.

The next largest category of roll calls is entitled
gal procedures," and includes nine roll calls. Again,
title is crude but it is meant to include roll calls
ling with arrest and trial procedures and wiretapping
visions. As such, legal procedures are properly part
a larger category of roll calls broadly dealing with
issue of civil liberties. What is extracted here is
t portion of roll calls dealing primarily with the
il liberties of the accused during arrest and trial.
roll calls included are: #31, #43, #44, #45, #46, #47,
#49, #50. Specifically, these roll calls deal with
cs such as admittance of voluntary confessions in
ence, the admissibility in evidence of eyewitness
imony, and authorization of wiretap. Nearly all of
e roll calls relate to Congressional attempts at over-
ing recent Supreme Court decisions directed toward

rial proceedings and arrest procedures, including the allory, Miranda, and Stovall decisions.

One of the interesting points of debate on fire-rms in the Senate was the apparent difference between pponents and proponents of gun restrictions on how to eal with criminals. Opponents of gun restrictions sserted crime could only be stopped by harsher penalties d a reversal of the recent rulings of the Supreme Court trial procedures. Proponents of gun restrictions emed unanimous in their views that crime was engendered social causes, that increased penalties would not lve the problem, and that restricting the use of guns uld remove some of the temptation. Although these ews seemed apparent in the debate, the question remained ether voting records would support them.

The third largest group of roll calls is entitled litary" and includes topics such as appropriations for itary construction, monies for an anti-ballistic sile system, funds for military research and develop-t, questions of national security and civil defense ropriation. Nine roll calls fall under this category: #13, #14, #18, #34, #35, #37, #52, #54. These roll s were primarily curiosity items, checking to see if ures on military expenditures would relate in any way irearms roll calls.

The fourth category of roll calls deals broadly the topic of civil disturbances and is labelled

"disturbance." Roll calls #11, #26, #27, #28, #29, #56, and #57 are grouped here. These roll calls include calling for investigation of the economic and social causes of crime, extending Federal protections during civil disturbances, prescribing penalties for inciting civil disturbances, and refusing monetary aid to campus disrupters. In many respects this category is the twin of "legal Procedures" in that it deals with civil liberties; however, its main concern is not the court room but rather the issues of penalties, police protection and investigation of the causes of crime. It raises more specifically than before the issue of "cracking down" on the criminal and the disrupters.

The category entitled "economic" is meant to encompass a variety of roll calls on setting the debt limit, and requiring a balanced budget. It includes roll calls #1, #3, #6, #7, and #33; number 3 allows tax credit for educational purposes. This is a very small sample" from a much larger universe of bills which may t one time or another involve economic issues: anti-rust policy, price and wage controls, anti-inflation asures and the like. The limited scope of economic lls in this study reflects the paucity of economic sues meeting the statistical prerequisites set here.

Two categories have three roll calls each. The rst is referred to as "state powers" and is meant to ntify the group of roll calls that in a loose manner

oncern the issue of reducing Federal powers or increasing
tate authority in various programs. Included are roll
lls #20, #21, and #53. The other group is labelled
Communism" and is a very rough denotation for three roll
lls loosely having to do with the "spectre of communism."
ll call #9 forbids credit transactions with nations
ving aid to North Vietnam; roll call #10 provides that
edit transactions with communist countries may only pro-
ed if the President deems such in the National interest;
ll call #19 calls for a reduction in appropriations for
e Subversive Activities Control Board. As such, #9 and
0 deal with external Communism and #19 with internal
mmunism. One of the less serious aspects of the gun
bate has been the belief that disarming the citizenry
uld make a "Communist take-over" easy. Although the
all number of roll calls here cannot adequately deal
h all the ramifications of such a position, they can
d some insight into the proposition that opponents and
ponents on gun legislation had dissimilar views toward
to communist nations.

Two other small groups of roll calls are identified
this study. One labelled "race" identifies two roll
ls on racially related matters of civil rights. Roll
l #25 and #30 both deal with fair housing provisions.
other category, called "political," identifies two
calls on the question of Congressional District
portionment (roll calls #4 and #5 respectively). Of

course, the term political can incorporate any number of roll calls on a great variety of topics.

A serious problem had to be solved before the contingency table analysis across these issues could proceed. The problem may best be explained by an example. Imagine two "welfare" roll calls, one which increases appropriations for Head Start and the other which decreases appropriations. Assuming all other things are equal, a yes vote on both means two very different things. It is a problem similar to that encountered during the Guttman scale program when it was imperative that "all yeas meant essentially the same thing, i.e., pro-gun regulation. It is equally important here for the sanity of the analyst and the reader that some convenient method of identifying common and uncommon yeas and nays is found. The procedure adopted here is a visual one, and not one involving the mechanical reflection of bill and roll call meaning. Essentially, the procedure requires finding some general and overriding question within each of the specified categories along which yea may be evaluated. For example, in the category "state powers" the common denominator is whether state powers or federal powers are enhanced by the bill or amendment; under social welfare it is whether appropriations for welfare are increased or decreased, or whether earnings tests are liberalized or tightened. Under "communism" the general question is whether the bill takes a "hard line" toward communists or a "soft one."

-nos

ate any number of

In the category "disturbance" the question is whether penalties are increased for civil disturbances (this loose wording is dealt with later). The "legal" category specifies roll calls which may be seen as dealing in some respect with the rights of the accused. Under "military" the question is whether increased or decreased appropriations (or support or rejection of new hardware) is advanced. The remaining four categories are explained later.

The reader is cautioned to avoid the temptation at this point to affix labels of conservative and liberal to these delineations as the development of these underlying dimensions are preliminary and purposefully loose. Their primary purpose is to aid in the statement of the following initial hypotheses concerning the relation of gun roll calls to these other issues.

Nine general and preliminary hypotheses are to be tested on the relationship between the gun roll calls and the other roll calls:

$H_1$ Support for gun restrictions is positively associated with support for social welfare programs.

Test: (Roll calls 38, 42, 61, 66) (roll calls 8, 15, 16, 17, 22, 23, 24, 32, 36, 51, 55)

$H_2$ Support for gun restrictions is positively associated with "protecting the rights of the accused" in respect of trial and arrest.

Test: (Roll calls 38, 42, 61, 66) (roll calls 31, 43, 44, 45, 46, 47, 48, 49, 50)

$H_3$ Support for gun restrictions is negatively associated with support for military expenditures and hardware.

Test: (Roll calls 38, 42, 61, 66) (roll calls 2, 13, 14, 18, 34, 35, 37, 52, 54)

$H_4$ Support for gun restrictions is negatively associated with restrictions on the debt limit and demands for a balanced budget.

Test: (Roll calls 38, 42, 61, 66) (roll calls 1, 6, 7, 33)

$H_5$ Support for gun restrictions is negatively associated with a hard line toward communism and communist nations.

Test: (Roll calls 38, 42, 61, 66) (roll calls 9, 10, 19)

$H_6$ Support for gun restrictions is negatively associated with attempts at increasing state powers vis-a-vis the Federal government.

Test: (Roll calls 38, 42, 61, 66) (roll calls 20, 21, 53)

$H_7$ Support for gun restrictions is positively associated with support for racially motivated fair housing provisions.

Test: (Roll calls 38, 42, 61, 66) (roll calls 25, 30)

$H_8$ Support for gun restrictions is positively associated with support for congressional redistricting and reapportionment.

Test: (Roll calls 38, 42, 61, 66) (roll calls 4, 5)

$H_9$ Support for gun restrictions is negatively associated with increasing penalties for criminal behavior and civil disturbances.

Test: (Roll calls 38, 42, 61, 66) (roll calls 11, 26, 27, 28, 29, 56, 57)

All of these hypotheses are tested by using contingency tables. Each table has four cells and thus 1

egree of freedom. $X^2$ is reported in all instances with .05 level of significance holding constant for all ables at a $X^2$ value of 3.84. C is also reported in all nstances, having an upper limit of 7.07. Analyses of alence and cell frequencies are also made throughout.

## Similarities in Voting Divisions

Hypothesis $H_1$ suggests that those supporting gun strictions also support welfare proposals; the reverse, e., opponents of gun restriction are also opponents of lfare proposals is also suggested. Generally, the con-ngency table analysis supports the hypothesis, although t for all gun bills, and not for all bills in the wel-re category.

Gun roll call #66 produced only one $X^2$ out of even that was significant, indicating that a very weak negligible relationship existed between final passage H.R. 17735 and welfare measures. Interestingly, one gnificant $X^2$ is reported using welfare roll call #36 ch had less to do with welfare appropriations than pply with encouraging the employment of low income per-s and the unemployed. None of the welfare measures ling with questions of appropriations produced signi-ant results when compared with roll call #66. But with ew minor exceptions #66 produced no significant $X^2$ with of the non-gun roll calls. This should be expected as esult of the small N who voted against roll call #66. requency cross tabulation of how the Nay voter on roll

call #66 voted on each welfare issue was made, however, to determine if opponents to gun restrictions on roll call 66 were also opponents of welfare legislation. Table III-1 reports these frequencies as well as the $X^2$ and C statistics between welfare roll calls and the gun roll call on H.R. 17735 (#66).

TABLE III-1.--Welfare Roll Calls and Firearms Roll Call #66.

| | | | | | Frequency Distribution of no voters on #66 x Welfare | |
|---|---|---|---|---|---|---|
| Gun | Welfare | $X^2$ | C | Valence | yes | no |
| 66 | 8 | 2.20 | .16 | + | 6 | 12 |
| 66 | 15 | 2.13 | .15 | ? | 11 | 9 |
| 66 | 16 | 2.92 | .18 | + | 9 | 11 |
| 66 | 17 | 3.71 | .20 | ? | 5 | 15 |
| 66 | 22 | 3.49 | .21 | + | 5 | 12 |
| 66 | 23 | .25 | .06 | + | 11 | 4 |
| 66 | 24 | .79 | .09 | - | 10 | 11 |
| 66 | 32 | 3.52 | .20 | + | 7 | 13 |
| 66 | 36 | 4.92 | .25 | + | 5 | 11 |
| 66 | 51 | 2.78 | .18 | - | 13 | 5 |
| 66 | 55 | .61 | .09 | + | 10 | 7 |

= Welfare roll call favorable to increased welfare expenditures.

plus (+) in the valence column indicates a yes vote on c bill was favorable to increased welfare appropriations liberalized earnings test; a minus means the opposite. ll calls #55, #24, #16, and #15 produce little variation

the voting patterns of the nay gun voters which may
dicate multiple issues were involved. However, #36,
2, #8, and #32, all of which were pro welfare bills,
und only minor support among those who voted no on
R. 17735.

The two roll calls on bills unfavorable to welfare
propriations (-) produced mixed results among nay voters.
ll call #17 would have reduced Emergency Employment Act
nds but it also would have funded private industries who
d on-the-job training programs for the disadvantaged.
e great majority of no voters on H.R. 17735 also voted
on roll call #17. On roll call #51, however, also
favorable to welfare programs as it sought to reduce
propriations, the same group overwhelmingly supported
e anti-welfare bill. The difference between #17 and #51
that #17 supports private efforts at retraining the
sadvantaged; both sought to decrease welfare appropria-
ons.

Roll call #61 (Tyding's registration bill) pro-
es a very strong relationship between guns and welfare.
le III-2 reports $X^2$ and C for tabulations between roll
l #61 and all welfare votes. The frequencies represent
welfare voting records of the yea voters on roll call
. That is, cross tabulations on the welfare roll calls
made for those who vote yes on the registration bill.

ABLE III-2.--Welfare Roll Calls and Firearms Roll Call #61.

| un | Welfare | $X^2$ | C | Valence | Frequency Distribution of yes voters on #61 x welfare | |
|---|---|---|---|---|---|---|
| | | | | | yes | no |
| 61 | 8 | 33.89 | .54 | + | 28 | 3 |
| 61 | 15 | 26.52 | .48 | ? | 2 | 31 |
| 61 | 16 | 25.31 | .47 | + | 30 | 1 |
| 61 | 17 | 21.31 | .44 | ? | 24 | 8 |
| 61 | 22 | 33.67 | .55 | + | 25 | 1 |
| 61 | 23 | 3.84 | .20 | + | 21 | 5 |
| 61 | 24 | 22.25 | .45 | - | 2 | 30 |
| 61 | 32 | 25.01 | .47 | + | 28 | 4 |
| 61 | 36 | 11.10 | .37 | + | 23 | 6 |
| 61 | 51 | 21.78 | .46 | - | 8 | 24 |
| 61 | 55 | 4.82 | .25 | + | 23 | 5 |

ith one exception the $X^2$ and C results are all very large, ndicating a strong relationship exists between support or welfare and support for gun registration. With only o roll call exceptions yea voters on registration over- elmingly supported pro-welfare roll calls and strongly jected the anti-welfare roll calls. The two exceptions e roll calls #15 and #17, both of which have confusing nguage and could have intuitively been scored either us or minus.

The same analysis between welfare roll calls and n roll calls was repeated for firearms roll calls #38 d #42. $X^2$ and C values reported were generally signi- tant and strong, although not quite on the order of

those reported for the registration roll call (#61). Additionally, a check of the frequency tabulations using these other gun roll calls indicated the same patterns among the participants existed.

In summary, the strong relationship between welfare expenditures and firearms regulation voting cannot be denied. The correlates of such a relationship should surprise no one as it is no secret that support for welfare programs of this nature follow the same regional, urban-rural, and party splits that characterized the gun vote. There is no necessary cause and effect relationship implied between welfare and firearms roll calls by the high $X^2$ and C values; rather, they would seem to indicate a common response by Senators from states sharing a common problem: the urban sprawl with the concomitant problems of the poor and violence. Interestingly, those who opposed H.R. 17735 but favored welfare measures were generally from the Rocky Mountain, Pacific and North West Central states; Southerners as a rule opposed <u>both</u> types of measures.

This suggests some interesting points. First, those who are in favor of both firearms restrictions and welfare legislation, consistently turn to government for redress of social ills. Those opposed to restrictions divide on welfare, one group showing consistent behavior, the other not. The consistent group are the Southerners who refuse governmental welfare assistance while at the

ame time rejecting governmental regulation of one of the ast vestiges of individualism, the armed citizen. The nconsistents are those who support government welfare rograms but reject governmental remedy of other social ills such as violence. In part, this latter inconsistency may be attributable to the belief that gun regulation may accomplish no good while welfare programs will. It may, however, be more pernicious than that: give the "poor" a few loaves to keep them happy, but let us keep our guns as the final line of defense.

Hypothesis $H_2$ suggests a relationship exists between support for gun restrictions and support for the civil rights of the accused in trial and arrest procedures. As with welfare roll calls, the cross tabulations of roll call #66 and the "legal" roll calls only produced a few significant relationships. Roll call #31 admitting voluntary confessions in evidence, #46 also dealing with the admission of confessions, and #48 which would have allowed federal judicial interference with a trial court's decisions to admit eyewitness testimony were all significant at the .05 level, although their C values were weak. The other "legal" roll calls produced no significant relationships in conjunction with roll call #66. The nay voters on roll call #66 (H.R. 17735) opposed all of the legal" roll calls which, except for one, were all favorable toward the recent Supreme Court decisions on trial and arrest procedures. Although the variation in these

frequencies are weak, there is some support for the reverse $H_2$ hypothesis that those opposed to gun restrictions were desirous of overturning court decisions "favoring" the criminal.

Much stronger relationships for $H_2$ are found using, again, the registration gun bill. Table III-3 reports consistently high $X^2$ and C values for these cross tabulations. The yea registration voters consistently support pro-Supreme Court stances while strongly rejecting the single roll call (#31) which would have weakened Court decisions on the admissibility of confessions in evidence.

TABLE III-3.--Legal Procedures and Firearms Roll Call #61.

| Gun | Legal Procedures | $X^2$ | C | Valence | Frequency Distribution of yes voters on #61 x Legal Procedures | |
|---|---|---|---|---|---|---|
| | | | | | yes | no |
| 61 | 31 | 30.75 | .52 | - | 1 | 28 |
| 61 | 43 | 21.20 | .44 | + | 21 | 9 |
| 61 | 44 | 24.41 | .47 | + | 20 | 10 |
| 61 | 45 | 23.93 | .47 | + | 19 | 11 |
| 61 | 46 | 20.82 | .44 | + | 28 | 2 |
| 61 | 47 | 28.74 | .50 | + | 19 | 11 |
| 61 | 48 | 12.68 | .36 | + | 26 | 4 |
| 61 | 49 | 12.45 | .36 | + | 21 | 9 |
| 61 | 50 | 20.41 | .44 | + | 18 | 12 |

= Pro Supreme Court roll call on trial and arrest procedures favorable to accused.

Strong relationships consistent with $H_2$ are also produced using firearms roll calls #38 and #42. For the most part $X^2$ and C values are high.

TABLE III-4.--Legal Procedures and Firearms Roll Call #42 and #38.

| Gun | Legal Procedures | $X^2$ | C | Valence |
|---|---|---|---|---|
| 42 | 31 | 16.49 | .40 | - |
| 42 | 43 | 14.48 | .38 | + |
| 42 | 44 | 13.74 | .37 | + |
| 42 | 45 | 11.20 | .34 | + |
| 42 | 46 | 20.89 | .44 | + |
| 42 | 47 | 9.53 | .31 | + |
| 42 | 48 | 18.41 | .42 | + |
| 42 | 49 | 19.87 | .43 | + |
| 42 | 50 | 13.95 | .37 | + |
| 38 | 31 | 8.89 | .31 | - |
| 38 | 43 | 10.35 | .33 | + |
| 38 | 44 | 11.16 | .34 | + |
| 38 | 45 | 10.76 | .33 | + |
| 38 | 46 | 16.23 | .40 | + |
| 38 | 47 | 10.13 | .32 | + |
| 38 | 48 | 14.42 | .38 | + |
| 38 | 49 | 10.35 | .32 | + |
| 38 | 50 | 9.67 | .32 | + |

These findings are consistent with the dimensions of the Senate firearms debate outlined in Chapter II. It seems relatively clear here, based on this limited analysis, that the issues of guns and crime were related in more

than just the debate. What seems puzzling, however, is that those who are least desirous of protecting the rights of the accused (and generally they are those who are most vocal about crime and criminals) are the ones least willing to restrict use of the violent tools of the criminal. Perhaps it stems from a genuine belief that gun regulation will disarm only the law-abiding citizen, and thus serve no useful purpose. But this seems strange for police agencies, the usual ally of those who suggest recent Supreme Court decisions allow the guilty to go free, have consistently supported strict gun regulations. What may be equally plausible under these circumstances is that the fear of crime and the criminal produces a double barrel reaction: (1) tighten up the court system but (2) let me, the law-abiding citizen, keep my gun as the last ditch of defense; society has proved to be ineffective in controlling crime and riots, and there is no irrefutable assurance that restrictions on guns will increase security.

The $H_3$ hypothesis suggested a relationship existed between gun regulation and military expenditures. With a few minor exceptions the contingency table analysis between firearms regulation and military expenditures roll calls produced insignificant findings. $X^2$ and C values were generally low even among relationships using the firearms registration bill. Frequency cross-tabulations for yea voters on the registration bill as well as for nay voters on H.R. 17735 were discouragingly non-productive.

Two of the military bills offer some exception to this general evaluation. Roll call #52 which would have barred anti-ballistic missile funding did discriminate among gun proponents. A frequency cross-tabulation of nay voters on H.R. 17735 indicates strong support for anti-ballistic missile funding; but most of this support comes from the South as most non-Southern opponents of H.R. 17735 were also opponents to funding the anti-ballistic missile. Yea voters on Tydings' registration bill all supported, by a 2-1 margin, cutting anti-ballistic missile funds.

The second exception in the military bills is roll call #2 which by virtue of its wording may belong in a number of issue categories other than military. The roll call, on motion by Thurmond, declared an executive convention could not be construed in any way as weakening the right of the United States to safeguard its own security. The bill must have awakened great fervor in many an anti-communist as well as the "militant." Nay voters on H.R. 17735 overwhelmingly supported the measure while yea voters on the registration bill opposed the measure 32-1. As the wording and subsequent debate on these bills (#2, #52) demonstrate, the issues involved more than the usual matter of authorizing funds for military procurement. The anti-ballistic missile system vote, especially more than the other bills in this group, followed closely the regional pattern outlined for firearms

voting. Interestingly, 29 Democrats and 12 Republicans voted to restrict ABM funds, only one of the Democratic votes was from the South.

$H_4$ relates gun bills to certain economic issues, chiefly debt limits and balanced budgets. These two issues, and one giving tax credits for college educations, have been grouped under the heading "economic." As with other issues, relationships between voting on roll call #66 and the economic roll calls proved to be negligible. Analysis with roll calls #61, #42, and #38, however, all produced significant $X^2$ and moderately high C values. The exception is roll call #3 which allows tax credit for college education and apparently has nothing in common with firearms roll calls.

TABLE III-5.--Economic Roll Calls and Firearms Roll Call #61.

| | | | | | Frequency Distribution of yes voters on #61 x Economic | |
|---|---|---|---|---|---|---|
| Gun | Economic | $X^2$ | C | Valence | yes | no |
| 61 | 1 | 11.10 | .34 | + | 29 | 3 |
| 61 | 3 | .08 | .03 | + | 19 | 8 |
| 61 | 6 | 19.25 | .43 | - | 6 | 23 |
| 61 | 7 | 13.52 | .37 | - | 6 | 24 |
| 61 | 33 | 13.12 | .37 | - | 0 | 32 |

\+ = Bill or amendment favorable toward raising the debt limit or refusing the requirement for a balanced budget.

TABLE III-6.--Economic Roll Calls and Firearms Roll Call #42.

| Gun | Economic | $X^2$ | C | Valence |
|---|---|---|---|---|
| 42 | 1 | 19.34 | .43 | + |
| 42 | 3 | .87 | .10 | + |
| 42 | 6 | 9.84 | .32 | - |
| 42 | 7 | 7.90 | .29 | - |
| 42 | 33 | 19.91 | .44 | - |

TABLE III-7.--Economic Roll Calls and Firearms Roll Call #38.

| Gun | Economic | $X^2$ | C | Valence |
|---|---|---|---|---|
| 38 | 1 | 23.32 | .46 | + |
| 38 | 3 | .15 | .04 | + |
| 38 | 6 | 6.46 | .26 | - |
| 38 | 7 | 7.04 | .27 | - |
| 38 | 33 | 8.58 | .30 | - |

The relationship between questions of the public debt and a balanced budget and issues of firearms control seems clear enough. For example, the great majority of the yea voters on the registration bill opposed attempts at restricting the debt limit and of forcing the President to submit a balanced budget; they in turn overwhelmingly supported permanently expanding the debt limit. In this respect the economic "conservative" and the economic "liberal" took opposing sides on the gun issue.

$H_5$ holds that support for gun restrictions is negatively associated with a "hard line" towards Communism

or Communist nations. Admittedly, the conceptualization of "hard line" is imprecise. Here, it refers to two bills restricting loans to Communist nations or nations who trade with North Vietnam (roll calls #10 and #9 respectively). Roll call #19 which would have reduced expenditures for the subversive activities control board is also included here.

TABLE III-8.--Communism Roll Calls and Firearms Roll Calls #61 and #66.

| | | | | | Frequency Distribution of yes voters on #61 x Communism | |
|---|---|---|---|---|---|---|
| Gun | Communism | $X^2$ | C | Valence | yes | no |
| 61 | 9 | 32.10 | .54 | - | 12 | 19 |
| 61 | 10 | 6.28 | .27 | - | 10 | 19 |
| 61 | 19 | 8.07 | .29 | + | 19 | 13 |
| 66 | 9 | 1.73 | .15 | - | 12 | 2 |
| 66 | 10 | .09 | .03 | - | 9 | 9 |
| 66 | 19 | .12 | .04 | + | 7 | 12 |

- = "Hard Line" toward Communism or Communits nations.

The results, although somewhat inconclusive, indicate a relationship exists between firearms regulation and aid to communist nations. $X^2$ and C values are not significant for roll call #19, however, as well as for contingency tables using gun roll call #66. The strongest $X^2$ and C values are reported between roll call #9, which would stop

credit to any nation "aiding" North Vietnam, and roll call #61, which is the registration bill. Firearms restriction supporters generally vote nay on bills which would restrict relations with Communist nations, while the opposite is true of the proponents of firearms regulation. In this last respect, it is interesting to note that the nay voters on gun roll call #66 (H.R. 17735) voted by a 12-2 margin in favor of the restrictive wording of roll call #9.

$H_6$ holds that attempts to increase the powers of states is inconsistent with attempts at federally restricting the use or possession of firearms. Three roll calls (#20, #21, #53) were available to test this hypothesis. Two would have variously increased the authority of the state in respect to the administration of Federal programs. The third roll call (#21) is an issue of a slightly different cast as it would reduce the Federal share of spending in personnel training programs.

TABLE III-9.--State Powers and Firearms Roll Call #66.

| Gun | State's Powers | $X^2$ | C | Valence | Frequency Distribution of no voters on #66 x State's Powers: yes | no |
|---|---|---|---|---|---|---|
| 66 | 20 | .52 | .08 | - | 10 | 10 |
| 66 | 21 | .17 | .04 | - | 11 | 8 |
| 66 | 53 | 1.61 | .15 | - | 10 | 7 |

- = Support for increase in State's Powers relative to the Federal Government's powers.

TABLE III-10.--State Powers and Firearms Roll Call #61.

| Gun | State's Powers | $X^2$ | C | Valence | Frequency Distribution of yes voters on #61 x State's Powers: yes | no |
|---|---|---|---|---|---|---|
| 61 | 20 | 28.18 | .50 | - | 5 | 24 |
| 61 | 21 | 18.69 | .42 | - | 8 | 20 |
| 61 | 53 | 26.75 | .52 | - | 1 | 24 |

Roll calls #20 and #53 clearly seek to expand the powers of states; the $X^2$ and C values for these roll calls are generally significant and large when using registration bill #61. Additional $X^2$ and C tests were made using roll calls #38, #42, and #66, but here the results were mixed. As usual, #66 offered little discriminating value, but a cross tabulation of the nay voters on #66, using the states powers roll calls, indicates the issue of states rights is not a sufficient condition to explain the firearms voting behavior of the most ardent restriction opponents. Clearly, the nay voters on firearms are split on the roll calls dealing with increasing state powers. This is not surprising as both the Guttman scale analysis and a quick reading of the Congressional debate will confirm: for many opponents of restrictions, the issue of which governmental level should do the restricting was secondary to the view that there should be no regulation at all.

The converse, however, is true for the most ardent supporters of gun restrictions. One of the central points made by proponents of restrictions was that states acting individually could not control the traffic in firearms; the necessity for Federal action, therefore, seemed plain. It is not surprising that advocates of strong Federal Controls in firearms would resist encroachments against Federal powers in other areas as well. Table III-10 demonstrates overwhelming margins in this direction in the voting patterns of the yea registration Senators.

Analysis using roll calls #38 and #42 proved to be somewhat inconsistent on this point although still generally supportive of the $H_6$ thesis. But a comparison of the relative strengths of $X^2$ and C produced by the May long gun vote (#38) over the September registration bill (#61), indicates roll call #38 produced consistently less strong relationships than #61 across all state's powers roll calls. That is, the states' powers issues are better predictors of registration votes than they are of votes on including long gun provisions in a mail order ban. Although the Guttman scale analysis indicated the voting patterns for roll calls #38 and #61 were similar, it did show the registration bill to be the strongest restrictive measure in terms of scale arrangement; perhaps part of the minor over-all predictive differences between #38 and #61 may be accounted for by the fact that registration-licensing being more radical, differentiates more clearly

the opposing factions on the issue of states' powers as well.

$H_7$ posits the existence of a positive relationship between support for firearms provisions and support of Fair Housing Provisions. Analysis using roll calls #25 and #30, both of which would have weakened fair-housing provisions, indicates a moderately strong relationship exists. Fair housing provisions all have a racial overtone, however, and the basic Southern-Western and Easter-Midwestern split over firearms should also be reflected in this racially motivated group of roll calls as well. Indeed, it is plain that the Eastern-Midwestern supporters of registration were nearly unanimous in their opposition to watering down fair housing provisions. Opponents of firearms restrictions, as characterized by nay votes on roll call #66, are interestingly split on the issue of fair housing. Most of the nay voters on H.R. 17735, however, who also vote to restrict fair housing proposals, are from the South; with the important exception that eight, or 50 per cent, of the Rocky Mountain Senators voted in favor of roll call #25 which would have excluded single dwelling private homes from fair housing provisions. Although the strength of Southern rejection was nowhere as strong in the Rocky Mountain States, the significant $X^2$ and C values between guns and fair housing cannot simply be dismissed as Southern vs. non-Southern regionalism. The reasons for the association are not altogether plain;

TABLE III-11.--Racial Issues and Firearms Roll Calls #66 and #61.

| Gun | Race | $X^2$ | C | Valence | Frequency Distribution of no voters on #66 x Race: yes | no |
|---|---|---|---|---|---|---|
| 66 | 25 | 8.12 | .29 | - | 14 | 7 |
| 66 | 30 | 8.02 | .29 | - | 11 | 10 |
| | | | | | Yes voters on #61 x Race | |
| 61 | 25 | 25.69 | .47 | - | 2 | 31 |
| 61 | 30 | 14.80 | .38 | - | 1 | 29 |

- = Bill or amendment opposed to Racial Integration.

perhaps it is the product of partisan and/or regional variables working together.

The thesis also has been advanced that suburbanites simultaneously opposed fair housing provisions and gun restrictions, fearing blacks on both accounts. The Senate data will not allow testing of this thesis; House data may. Some further analysis along this issue was attempted using House data; roll calls on two bills were compared: (1) the final vote on H.R. 17735 and (2) a bill which would have made the use of Federal funds for the cross-town bussing of school children to achieve racial balance illegal. The pitfalls of using only two roll calls are to be noted. Additionally, cross-town bussing and fair housing are not precisely the same issues, although both have racial overtones. But the analysis of the H.R. 17735

roll call and the bussing roll call in the House indicate the regional patterns in voting on guns and fair housing in the Senate were duplicated in the House. That is, most opposition to both gun restrictions and bussing came from the South. Twenty-nine non-Southern representatives voted against both H.R. 17735 and bussing, but nearly all of them represented rural districts in their states. The thesis that suburbanites might oppose both gun restrictions and bussing receives very weak support here; only Ohio's first district (bordering Cincinnati), Missouri's fourth district (bordering Kansas City), Kentucky's fourth district (bordering Louisville) and Tennessee's seventh and eighth districts (bordering Memphis) could in any way be used to support that thesis; Representatives from these districts voted against both roll calls. More will be said on the nature of suburban support for gun restrictions in the next chapter.

$H_8$ presumes a relationship exists between attempts at Congressional redistricting and firearms voting. A good deal has been written in the past on the urban-rural split over the issue of redistricting or reapportionment. It was expected that the firearms issue, also in part a rural-urban issue, would produce significant $X^2$ and C values when related to the redistricting question.

TABLE III-12.--Political Roll Calls and Firearms Roll Calls #66 and #61.

| Gun | Political | $X^2$ | C | Valence | Frequency Distribution of no voters on #66 x Political | |
|---|---|---|---|---|---|---|
| | | | | | yes | no |
| 66 | 4 | .79 | .09 | + | 8 | 11 |
| 66 | 5 | 3.71 | .20 | + | 9 | 10 |
| | | | | | Yes voters on #61 x Political | |
| 61 | 4 | 19.73 | .43 | + | 26 | 5 |
| 61 | 5 | 11.36 | .34 | + | 28 | 3 |

+ = Bill or amendment favoring redistricting proposals.

TABLE III-13.--Political Roll Calls and Firearms Roll Calls #42 and #38.

| Gun | Political | $X^2$ | C | Valence |
|---|---|---|---|---|
| 42 | 4 | 8.03 | .29 | + |
| 42 | 5 | 9.45 | .31 | + |
| 38 | 4 | 8.35 | .29 | + |
| 38 | 5 | 9.64 | .31 | + |

Significant $X^2$ and moderate C values are reported in both these tables with the usual exception of roll call #66. An analysis of the nay frequencies on #66 and the yea frequencies on #61, however, indicates that the redistricting question is not given favorable treatment one way or the other in the former case, while in the latter case overwhelming support among yea registration

voters for redistricting is recorded. The support for redistricting among registration supporters is largely due to the fact that the majority of supporters for registration come largely from urban states. Of course, much of the opposition to firearms comes from rural states. This opposition in respect of roll call #61 is interesting when cross tabulated with redistricting proposals; 70 per cent of the nay voters on roll call #61, who also voted against Kennedy's redistricting proposals, were from Southern states; however, those opposed to H.R. 17735, but favoring redistricting, were those primarily from Wyoming, Montana, Utah, Nevada, North Dakota, Missouri, and South Dakota. Obviously Congressional redistricting issues do not divide neatly with gun roll calls along regional lines. There is also some reason to question whether the urban-rural split is the best description for redistricting roll calls.

$H_9$ hypothesizes a relation between bills concerning penalties for criminal behavior and firearms voting. The origin of this hypothesis came from an unsystematic review of the Senate firearms debate where it seemed evident that opposing sides on the issue of gun legislation were viewing differently how crime and criminals ought to be treated. Proponents of gun restrictions argued that harsher penalties would not solve the crime problem; that part of the crime problem was traceable to the accessibility of the firearm. Opponents of gun restrictions

insisted that only harsh penalties would dissuade the criminal and no amount of governmental regulation would keep firearms out of the hands of criminals. Roll calls were selected to test if, indeed, opposing sides on gun issues took opposing sides on the issue of penalties.

TABLE III-14.--Civil Disturbance Roll Calls and Firearms Roll Call #66.

| | | | | | Frequency Distribution of no voters on #66 x Civil Disturbances | |
|---|---|---|---|---|---|---|
| Gun | Civil Distur-bances | $X^2$ | C | Valence | yes | no |
| 66 | 11 | 4.32 | .24 | + | 1 | 9 |
| 66 | 26 | 1.88 | .14 | - | 13 | 6 |
| 66 | 27 | 4.05 | .21 | + | 6 | 15 |
| 66 | 28 | .31 | .06 | - | 16 | 4 |
| 66 | 29 | 5.78 | .25 | - | 12 | 8 |
| 66 | 56 | 1.55 | .15 | + | 4 | 12 |
| 66 | 57 | 3.56 | .23 | + | 4 | 12 |

- = favorable toward increasing penalties.

On balance, the relationships uncovered earlier between firearms roll calls and legal procedures roll calls remained in force between firearms roll calls and roll calls on criminal penalties. Proponents of firearms restrictions continued their "crackdown" on criminals by increasing and extending penalties for crime and civil disturbances. Supporters of gun restrictions took the opposite view, however, rejecting those bills which would have extended

TABLE III-15.--Civil Distrubance Roll Calls and Firearms Roll Call #61.

| Gun | Civil Distur-bances | $X^2$ | C | Valence | Frequency Distribution of yes voters on #61 x Civil Disturbances yes | no |
|---|---|---|---|---|---|---|
| 61 | 11 | 19.88 | .47 | + | 18 | 6 |
| 61 | 26 | 25.51 | .47 | - | 6 | 26 |
| 61 | 27 | 24.82 | .46 | + | 27 | 6 |
| 61 | 28 | 7.04 | .27 | - | 19 | 13 |
| 61 | 29 | 19.55 | .43 | - | 2 | 28 |
| 61 | 56 | 22.26 | .49 | + | 19 | 7 |
| 61 | 57 | 24.81 | .52 | + | 21 | 4 |

Federal penalties or created new penalties for criminal behavior. Of particular notice is roll call #11 which called for the investigation of the economic and social causes of civil disorders and crime. Although this roll call does not directly concern the issue of penalties, floor debate made it clear that the alternative argument to increasing penalties was to eradicate the social and economic causes of crime. By an overwhelming margin, yea voters on the registration bill supported the measure while nay voters on roll call #66 rejected the measure. The same pattern is apparent on two roll calls (#56 and #57) which sought to give universities the prerogative of withdrawing Federal funds from students participating in disruptive activities; both roll calls were an attempt to water down attempts at making such fund withdrawals mandatory.

$X^2$ and C values were significant but moderate for three out of seven analyses using roll call #66 (H.R. 17735) and the "disturbance" roll calls; they were, as usual, significant and strong using the registration roll call (#61). Supplementary contingency tables using gun roll calls #42 and #38 also produced significant chi squares and moderate C values.

## Clustering Related Issues

The analysis of roll calls intuitively grouped and individually related through $X^2$ and C statistics has given some indication that firearms voting divisions were similar to voting divisions on other issue areas. Unfortunately, with the analysis of each roll call taking place separately, the problem of identifying which roll calls and in which combinations produce the most consistent voting alignments among Senators becomes difficult. Of course, we already have some idea for example, that welfare roll calls produced greater non-random differences than did military related roll calls, but this does little to enumerate the differences among roll calls within each category.

An agreement matrix used in conjunction with a clustering program, offers a way of ordering each roll call in terms of the voting agreement it produces with other roll calls. This procedure involved four steps here. First, using the agreement formula described earlier, all sixty-six Senate roll calls were compared with each other in terms of the voting patterns of Senators. AI was

computed for all such combinations and placed in a sixty-six by sixty-six matrix. Second, the computor began clustering or grouping roll calls in terms of the average agreement of pair-wise values; that is, the computor began searching for those combinations of roll calls which were similar to one another in terms of roll call behavior. Third, the average within cluster agreement or similarity (AVGS) was computed for combinations ranging in size from two roll calls to all of the roll calls. Fourth, the clusters of various size were finally rank ordered in terms of their AVGS and listed for analysis.

Under this procedure, smaller clusters of roll calls should produce higher AVGS statistics as the smaller the number of roll calls, the greater the probability of agreement among Senators. Likewise, it should be expected (or perhaps wished) that roll calls substantively homogeneous will cluster among themselves before clustering with other roll calls. This of course need not be the case, as many an analyst has discovered. Indeed, the intuitive and the agreement cluster methods are both employed here because although agreement clustering is an objective means of grouping roll calls, it does not always produce objectively identified issue areas.

The agreement cluster results for this analysis points out several relationships among the sixty-six Senate roll calls. First, in terms of average, overall agreement measures, firearms roll calls cluster among

themselves first before clustering with any other roll calls. Roll calls #65 and #66 are the two exceptions to this, as neither one of them cluster with the other gun roll calls until after other substantive issues have joined the basic gun cluster. This is not surprising as the low minority marginal in #65 and the relatively low minority marginal in #66 preclude high pair-wise agreements with the other gun votes. The thirteen remaining gun votes and their clustering order are presented in Table III-16.

TABLE III-16.--Firearms Roll Call Cluster Analysis.

| Cluster Number (CN)* | AVGS | Roll Calls |
|---|---|---|
| 2 | 94.5 | 59,60 |
| 10 | 91.3 | 38,39,40 |
| 17 | 88.2 | 61,62,63,64 |
| 26 | 84.7 | 38,39,40,61,62,63,64 |
| 44 | 81.6 | 38,39,40,58,59,60,61,62,63,64 |
| 50 | 80.9 | 38,39,40,42,58,59,60,61,62,63,64 |
| 65 | 78.5 | 12,38,39,40,41,42,58,59,60,61,62 63,64 |

*Corresponds to computor print out cluster number; 121 separate clusters were constructed and rank ordered according to AVGS values.

Similar to the results of the Guttman scale, the relative similarity between long gun votes and the registration votes is apparent (cluster number 26). The relatively high AVGS reported for roll calls #59 and #60

(CN2) and #38, #39, and #40 (CN10) support the reasons given earlier for using only one roll call from each of these groups in the Guttman scale. What is most worthy of mention, however, is that a non-gun bill does not appear in the firearms cluster even after 65 separate clusters have been constructed. The reasons for this are not at all simple, especially after $X^2$ and C values between gun and non-gun issues were reported at high levels. Obviously, there is a high degree of voting similarity on gun bills and a lower degree of voting similarity when any other issue is grouped with gun roll calls. This would seem to confirm the hypothesis that firearms roll calls form a distinctly objective policy area separate from the other issues examined here. But as the agreement cluster demonstrates, this objective quality of separateness is only a relative condition for at lower levels of agreement other issues do "cluster with the firearms roll calls." That is, there is indeed strong voting similarity among firearms roll calls but to a lesser degree there is also evidence of voting similarities among firearms and other issues. The contingency table analysis gave us some idea of which issues, generally and intuitively defined, seemed associated with firearms roll calls. The agreement cluster now allows more specific definition of what these issue areas are, as well as enumeration of which roll calls within each area produced the highest degrees of similarity.

The first clustering of gun roll calls and other roll calls involves twenty-two non-gun roll calls (cluster 91). These roll calls are defined in the clustering program as those which produce the highest average voting similarity of any grouping of gun and non-gun bills. As such, they are useful in this analysis for identifying those issues which in terms of roll call behavior are most related to firearms voting.

TABLE III-17.--Firearms and Non-Firearms Roll Call Cluster.

| Cluster Number | AVGS | Roll Calls | Proportion of Original Number of Bills | Intuitive Category |
|---|---|---|---|---|
| 91 | 72.301 | 31,43,44,45 46,47,48 | 7/9 | Legal Procedures |
| | | 8,15,16,17 22 | 5/11 | Social Welfare |
| | | 26,27,29 | 3/7 | Disturbance |
| | | 6,7 | 2/5 | Economic |
| | | 25 | 1/3 | State Powers |
| | | 53 | 1/2 | Race |

From Table III-17 it is patently clear that roll calls on legal procedures are most consistently related to issues of firearms regulation. Social welfare legislation also appears important although the proportion of the original bills included is smaller than for the legal procedure's category. The proportion for the social welfare category does, however, become larger (5/9) if we

rule out roll calls #15 and #17 which were earlier classified as ambiguous. Conspicuous by their absence are any of the military roll calls but this is consistent with the relatively low $X^2$ and C values reported for that group. Also, none of the "communism" or "political" roll calls are included, but again, this reflects the relatively low $X^2$ and C statistics reported for these as well. Interestingly, cluster number 92, with an AVGS of 72.026 includes roll call #9 which banned credit transactions with nations giving aid to North Vietnam. The AVGS difference between cluster #91 and #92 is less than .3 of a point on a scale of 100, indicating the roll call on Communism (#9) is approximately as closely related to all firearms votes as the rest of the roll calls appearing in Table III-17. Although the Guttman scale analysis of firearms denied any overwhelming importance for the issue of states' rights or states' powers, both the agreement cluster and the contingency table analysis indicates some relationship exists on the issue. The small number of roll calls included in the states' powers category, however, precludes making a firm judgment on the strength of the issue. Race and guns are related by roll call #25 (a fair housing roll call) in the cluster analysis; unfortunately, the cluster program does little to explain if factors other than region are associated with the relationship.

Whereas the contingency table analysis using $X^2$ and C sought to analyze the relationships between the

other issues and selected gun votes individually, the cluster agreement program determined in what respect the gun roll calls as a group related to other issues. In this respect, it confirms a number of general findings concerning which of the other issues and roll calls are most closely related to firearms voting in general.

## Summary

Several issues produce voting divisions similar to those uncovered in firearms voting. The most consistent voting divisions in this respect involve votes on social welfare, criminal procedures, and civil disturbances. That is, those who supported firearms regulations also supported social welfare legislation, and they opposed stiffer criminal penalties as well as attempts at reversing recent Supreme Court decisions on arrest and trial procedures. The opposite may be said for those opposed to gun restrictions.

There is some support, here, for the thesis that the economic "conservative" opposed gun restrictions while the economic "liberal" supported such regulations. There is almost no support for the belief that voting divisions on military expenditures had any apparent similarity to divisions on the firearms roll calls; the same may be said of voting on racially related issues. Also, those opposed to gun restrictions did not seem to consistently advocate expansion of state powers over the powers of the Federal government; those advocating gun

restrictions, however, were generally shown to favor expansion of the powers of the Federal government over a wide range of issues. Finally, there is only moderate support for the belief that those who opposed gun restrictions favored a "hard line" toward communism and communist nations.

## CHAPTER IV

## FIREARMS VOTING AND CONSTITUENCY CHARACTERISTICS

There is a great deal of literature describing, favorably and unfavorably, the linkage of Congressional voting and constituency demographic characteristics. The task for this chapter is not one of exploring this literature in depth but rather of determining in what respect there is theoretical and practical precedent for the job of relating Senate firearms voting records to statewide demographic characteristics.

### Roll Call Voting and Constituencies

The analysis of constituency characteristics and roll call voting presumes that, in fact, there is some communication and influence passing between a representative and his constituency. The presumption is a relatively new one insofar as it plays a role in the empirical investigation of constituencies and representatives; but its importance in the writings of normative theorists is age old and falls under one of three models: (1) The Burkean model, to which history has attached great weight,

directs the representative to vote his own judgment of what is the best interest of the constituency, independent of the will of the constituency;[1] (2) Opposite this is the mandate model which prescribes that the representative is bound to vote both the interest and the will of his constituency; (3) The third model assumes representatives are elected in partisan elections, by virtue of their membership in national parties. Representatives should, therefore, vote the will of the party and the parties become responsible to the electorate. Concerning this third model, Miller and Stokes conclude that,

> The conception of representation implicit in the doctrine of responsible parties shares the idea of popular control with the instructed-delegate model. Both are versions of popular sovereignty. But 'the people' of the responsible two-party system are conceived in terms of a national rather than a local constituency.[2]

The Burkean model has been criticized for its seemingly ivory tower attitude toward the demands of local constituencies. On the other hand the mandate and party models both seem to require that representatives (Senators included) take care to estimate the desires of electorates, for implicit in both these models is the threat that unhappy electorates will recall representatives. It has been suggested that all three of these models find practical use in the United States and that the relative importance of one over the other depends on the nature of the public policy being debated.[3] All three models are

primarily prescriptive models, however, advocating various relationships between representatives and constituencies.

Prescriptive models do not provide information on whether representatives actually make decisions in conformity with one of the models. Does the representative simply follow his conscience, or does he follow the party, or the mandate of his constituency? Lewis Froman has suggested that most congressional decisions involve plural pressures that may be summarized in terms of five types of pressure: "constituency, party, institutional, executive, and personal."[4] But Froman is also quick to point out that pressures from constituencies are perhaps the most important type.[5] Implicit in Froman's reasoning, and supported somewhat by other empirical findings, is the belief that the importance of constituency pressures is heightened by the relative weakness of the other types of pressures; it is not so much that Congressmen are constantly bombarded with constituency sentiments, but rather that the decentralized character of the party system and the decentralized political organization of Congress make sanctions from those quarters seem potentially less important than constituency electoral sanctions. Even though some may view party as a relatively weak influence, most of the early literature uses party as the primary independent variable.[6]

The importance of party pressures and partisan alignments in roll call voting continues to be a problem

for the analyst. The fact that there is strong party voting and loyalties in Congress on a variety of issues cannot be disputed. But this in itself does not disprove the importance of constituency pressures. The two parties very often reflect important constituency differences. We have already seen that although party correlates somewhat with firearms voting records, other variables do as well, such as regionalism, and it is no secret that partisan identification correlates highly with many other variables. Voting studies have generally indicated that the two parties have disproportionate backing from different groups in society and that these groups may be defined using numerous variables such as social, cultural, and economic factors. Additionally, "it has not been shown that partisan unity is independent of constituency characteristics; much less that party positions are the basis of decision making by representatives in opposition to the interests they perceive in their constituencies."[7] Perhaps most important in this respect, is the great number of correlations that have been found between various demographic data and party voting patterns.[8] Party allegiance, for example, has been correlated with a number of factors including ethnic composition of the constituency, levels of urbanization, income characteristics, and so on. Demographic variables have also been shown to covary with voting in Congress, but the strength of these correlations, as well as the particular ecological variables

involved, switch from issue to issue. In this respect, Jack Vanderslik found, for example, that differences between Southern and Northern Democrats in respect of foreign trade and agricultural policy are relatively slight when compared to their differences over civil liberties and urban improvement.[9]

Most of the conclusions that have been drawn about the relationship between constituency characteristics and legislative voting behavior have been based on data from the House of Representatives and from state legislative assemblies. This literature is less than clear about the effect of constituency influences when the composition of the constituency is heterogeneous, which generally becomes the case when moving from the Congressional District to the state level analyses of the United States Senate. In such a case, the legislator may choose to represent only some part of his constituency (the partisan majority electing him), or he may attempt to modify his stand vis-a-vis the entire constituency, or he may simply decide the issue irrespective of constituency pressure. It should be suspected that this problem becomes more acute as more people, over larger geographical areas, are represented by a single person. Taking this into account, it might be expected that correlations between demographic factors and voting behavior will be weaker for Senators than for Representatives. The assumption, here, however, is that the effect of the more heterogeneous state-wide

constituencies of the Senate will not hide, but simply reduce somewhat the correlations between Senate constituency characteristics and firearms roll call voting. This conclusion seems warranted by recent research. Clausen and Cheney report that the effect of constituency pressures seems less in the Senate, but the conclusions of their own research is that "the same set of forces are operative on Senators and Representatives," producing similar patterns but of different magnitudes.[10] Even so, this chapter will examine the question of differences in constituency impact between the two Houses by briefly examining the relationship between constituency characteristics in Congressional Districts and firearms voting in the House.

Simply finding a series of correlations, high or otherwise, between constituency characteristics and legislative voting only demonstrates an association between the two; simple correlations as such, unfortunately, do not demonstrate a direct impact of constituency will on the voting behavior of the legislator. Research in the early 1960's indicated the question of constituency influence might be better examined by looking at whether there was a relationship between the political attitudes of the electorate and decisions in Congress. Miller and Stokes, while examining three policy areas, found considerable agreement between constituency attitudes and the roll call.[11] While it is plain that the strength of correlations

will depend very much on the policy question at hand, Miller and Stokes, and later Cnudde and McCrone, believe an underlying relationship between mass attitudes and governmental decisions generally exist.[12] The influence of constituency attitudes was found, however, to pass through "the Congressman's perception of the district's views. . . ,"[13] and thus a one-to-one relationship between constituency attitudes and roll call votes should not be expected on this account: perceptions of attitudes and the actual attitudes are often different.

Miller and Stokes report considerable belief among Congressmen that legislative voting behavior affects chances for re-election.

> . . . . the idea of reward or punishment at the polls for legislative stands is familiar to members of Congress, who feel that they and their records are quite visible to their constituents. Of our sample of Congressmen who were opposed for re-election in 1958, more than four-fifths said the outcome in their districts had been strongly influenced by the electorate's response to their records and personal standing.[14]

The presumption is, of course, that Congressmen actually do believe their behavior is taken into account by their constituencies; if this is true, it seems reasonable that Congressmen will attempt to court the favor of the voter.[15] Courting favor, however, implies knowing what is favored.

The problem of evaluating constituency wants and attitudes is no small affair. In 1960 Campbell et al. reported some very interesting findings, especially interesting for those who would know constituency attitudes;

> The quality of the electorate's review of public policy formation has two closely related consequences for those who must frame the actions of government. First, it implies that the electoral decision typically will be ambiguous as to the specific acts government should take. The thinness of the electorate's understanding of concrete policy alternatives--its inability to respond to government and politics at this level--helps explain why efforts to interpret a national election in terms of a policy mandate are speculative, contradictory, and inconclusive. The second consequence of the quality of the public's review of policy formation is that the electoral decision gives great freedom to those who must frame the policies of government.[16]

The consequences for those who "need to know" the preferences of the public do not need explication. Even if a Congressman or a Senator does want to follow the dictates of his constituency, how does he find out what they are? No doubt, the methods of estimation are numerous and may include listening to special interests, reading mail, sending out surveys and making personal appearances. These methods, however, allow Senators to speak with only a few constituents and allow some interests a better hearing than others.

It is not beyond reason to believe that Senators and Representatives also use the tools of aggregate analysis which are available to the social scientist. Generally, the Senator has lived a long time in his state, and the Representative a long time in his district; it is reasonable that each knows the important demographic statistics of the area. Knowledge of how people make a living, as well as what kind of living they make, is the business of a Senator and a Representative. "The gross

measures of constituencies may (therefore) constitute a reasonable basis for estimating constituency interests as well as roughly correspond to the representatives' own best estimates of what their constituencies want."[17]

This short discussion, as well as the literature concerning the relationship between constituencies and representatives, leaves a great deal unanswered. But it is an immensely complicated question concerning on one side differing theoretical models of representation and widely divergent policy issues, while on the other side, incorporating great amounts of demographic, social, economic and political data. In what respect each of these factors is operative, and under what circumstances, remains to be seen. What seems clear, however, is that the gross characteristics of constituencies measured by census and related data is, in the view of many analysts, relatable to the output of legislative bodies. The question under examination in this study concerns finding associations between state demographic characteristics and firearms votes in the Senate. Specifically, the issue is not one of trying to prove conclusively that constituencies do influence Senators, although some discussion of the relationship between constituency characteristics and party will be held. Rather, the primary question is to determine in what respect there is an association between firearms vote and state aggregate characteristics.

## Data Gathering

Demography is the empirical study of population characteristics of three types: changes in population size, composition of the population, and the spatial distribution of populations. The demographic concepts and measures employed, here, in the study of firearms legislation touch all of these concerns. As a scientific tool demography offers means of providing measures of the state and Congressional District characteristics used in this study. The principal problem in this respect is finding demographic variables whose information is aggregated according to state and District boundaries. Theoretically, this is no problem for all the data decennially collected by the United States Census Bureau can be aggregated according to nearly any geographical unit. The practical problems of such a venture are immense, however, for the individual researcher. The great expense and time involved in converting even a single measure from census tracts to Congressional Districts is generally prohibitive.

Luckily, all is not lost as the Census Bureau publishes after each census The Congressional District Data Book, containing a great deal of demographic information arranged according to state and Congressional District. The solution is not quite as simple as this for the 90th Congress, however. By 1967 several states had redistricted, producing substantial changes in district boundaries, and consequently, significant changes in District demographic

figures from those reported in the 1963 Data Book. In Alabama, for example, all Congressional Districts were coded "at large" in the 1963 publication, but later redistricting assigned each of them to a portion of the state. Census Bureau supplements were used in recording data of thirty-one states, while data for states which had not redistricted as of 1967 were taken from the 1963 Data Book. In all cases, data is based on the 1960 national census and is, therefore, somewhat questionable for use in the period 1967-1968. Just on the basis of interpolation it might be more useful to use 1970 census data, but this unfortunately is not available. In any event, the assumption is that population changes between 1960 and 1967 generally do not affect any of the overall patterns discovered in this study between firearms voting and state and District characteristics.

The demographic concepts chosen for analysis in this study reflect three basic questions: (1) Do the relative differences in the urban-rural compositions of populations correlate with differences in the firearms voting records for representatives of those populations? (2) Do differences in the economic characteristics of populations correlate with differences in the firearms voting records of representatives of those populations? (3) Do differences in population electoral behavior, i.e., party preferences, electoral pluralities, and turnover characteristics, correlate with the firearms votes of the

representatives of these populations? Most demographic concepts and measures used here were selected with these inquiries in mind. A few, however, were not, and their inclusion is meant to satisfy some miscellaneous personal curiosities encountered during the early stages of research. These miscellaneous concepts include the following population characteristics: levels of educational attainment, age characteristics, and ethnic and racial compositions.

Table IV-1 presents a listing of the measures drawn from the Congressional District Data Book, and from other sources, which were used to operationalize the demographic concepts just mentioned. The table also footnotes the sources of the measures and provides the data card column numbers where the data is punched. "D-S" indicates whether the data is collected for the state as a whole (S), or for Congressional Districts (D), or for both.

Fuller explanations of these measures, and the methods employed in calculating them, will be presented as their effects are analyzed.

Firearms Roll Calls and Constituency Characteristics

Senate roll call voting on firearms was treated as the measure of the dependent variable in this analysis, while all of the constituency data were treated as measures for the independent variables. The Guttman scale scores of 89 Senators provided the measures of position on firearms

TABLE IV-1.--Demographic Variables.

| Variable # | Item | D-S | Source--Footnote | Source Item* | Card Column |
|---|---|---|---|---|---|
| | State Identification Code | D-S | 18 | | 1-2 |
| | Congressional District Identification Code | D | 3 | | 3-4 |
| 1 | Winning Party-Presidential Election--1960 | D-S | 19 | 1 | 5 |
| 2 | Percent Vote Cast for Winning Party--1960, Presidential Elections | D-S | 19 | 4 | 6-7 |
| 3 | Percent Change in Population: 1950-60 | D-S | 19 | 32 | 8-10 |
| 4 | Population per Square Mile | D-S | 19 | 34 | 11-15 |
| 5 | Percent of the Total Population that is Urban | D-S | 19 | 36 | 16-17 |
| 6 | District Classification (Urban-Suburban-Rural) | D-S | 20 | | 18 |
| 7 | Percent of Total Population that is Foreign Stock | D-S | 19 | 44 | 19-20 |
| 8 | Median Age | D-S | 19 | 75 | 21-22 |
| 9 | Percent of Population Completing Four Years of High School or More | D-S | 19 | 127 | 23-24 |
| 10 | Median Years of School Completed | D-S | 19 | 129 | 25-26 |
| 11 | Median Income | D-S | 19 | 138 | 27-31 |

TABLE IV-1.--Continued.

| Variable # | Item | D-S | Source--Footnote | Source Item* | Card Column |
|---|---|---|---|---|---|
| 12 | Percent of the Male Population Unemployed | D-S | 19 | 150 | 32-33 |
| 13 | Percent of the Work Force that is Blue Collar | D-S | 21 | | 34-35 |
| 14 | Percent of the Work Force that is Farm Worker | D-S | 21 | | 36-37 |
| 15 | Percent of the Work Force that is White Collar | D-S | 19 | 187 | 38-39 |
| 16 | Median Dollar Value of Owner-occupied Units | D-S | 19 | 247 | 40-45 |
| 17 | Median Rent in Dollars | D-S | 19 | 254 | 46-48 |
| 18 | Percent of the Total Population that is Negro | D-S | 19 | 40 | 49-50 |
| A | Index of District Economic Defense Commitment | D | 22 | | 51-52 |
| 19 | Senate Seat #1--Winning Party** | S | 23 | | 53 |
| 20 | Senate Seat #1--Percent Plurality for Winning Party | S | 23 | | 54-55 |
| 21 | Senate Seat #2--Winning Party*** | S | 23 | | 56 |
| 22 | Senate Seat #2--Percent Plurality for Winning Party | S | 23 | | 57-58 |
| B | 1966 Congressional Election--Winning Party | D | 24 | | 59 |
| C | 1966 Congressional Election--Percent Plurality for Winning Party | D | 24 | | 60-61 |

TABLE IV-1.--Continued.

| Variable # | Item | D-S | Source--Footnote | Source Item* | Card Column |
|---|---|---|---|---|---|
| D | 1968 Congressional Election--Winning Party | D | 25 | | 62 |
| E | 1968 Congressional Election--Percent Plurality for Winning Party | D | 25 | | 63-64 |
| F | 1968 Congressional Election--status of incumbent | D | 25 | | 65 |
| 23 | Per Capita State Income from Hunting Licenses | S | 26 | | 66-68 |
| 24 | Per Capita State Military Related Wage | S | 27 | | 69-71 |
| 25 | Senate Guttman Firearms Scale Score | S | | | 72-73 |
| 26 | Per Capita Number of Hunting Licenses per State**** | S | 26 | | |

*Refers to the item identification number used by the Census Bureau to label demographic characteristics.

**Defined as the first Senate seat coming up for election in the 1962 or 1964 elections.

***Defined as the second Senate seat coming up for election in the period 1962-1966.

****Not coded on data cards.

legislation. Two immediate problems emerged in the use of cumulative scale scores to measure firearms voting. First, Senate voting patterns produced a bimodal distribution of Senators in respect of gun voting records. Unfortunately, these distribution characteristics could not be avoided as they reflected the two large groupings of Senators consistently opposed or supportive of gun legislation. The result is that although correlations using data with bimodal distribution characteristics may be relatively accurate reflections of relationships between the variables, tests of significance become meaningless as such tests are based on assumptions of normal distribution.

The second problem involves the basic requirement of Pearson's r that the data in all variables should be continuous, interval measures. This is not the case with Guttman scale scores for they measure a property ordinally. Various statistics of correlation analysis have been developed to deal with variables measured ordinally, Kendall's Tau being one of the most prominent. These other statistics were not employed here, however, for three reasons. First, there is some precedent for using scale scores as interval measures when there is strong evidence that the particular cumulative scale is homogeneous and statistically strong, and especially when the scale measures frequency of behavior rather than some abstract attitude dimension. Second, Pearson's r makes better use of the interval data of the independent variables than does

Kendall's Tau. Third, the large number of tied voting scores reported for Senators creates special problems for the use of Kendall's Tau. For these reasons, Pearson's r was retained as the statistic for analysis of correlation.

The distribution of Senators in respect of gun voting produced one further problem. The artificial limits for minimum and maximum values (1-11) imposed on the Guttman scale scores, coupled with the large number of Senators occupying both of these extremes, meant that the assumptions of linearity might not be met under any circumstances. That is, the artificial "floor" and "ceiling" effects of the distribution of the dependent variable might result in a curvilinear relationship, only conservatively estimated by Pearson's r. A scatter diagram of each dependent-independent relationship was produced to see if curvilinearity was in evidence. With few exceptions, a curvilinear relationship was viewed but the curve was slight in nearly all cases; thus, the linear assumptions of Pearson's r are only marginally challenged.

The criteria for deciding whether a strong or weak correlation has been uncovered presents some problem here. Flinn has suggested that a correlation coefficient of .4 or better is very good in legislative system analyses.[28] Flinn's remark is used as a bench mark here as correlation coefficients of .4 or higher will be considered strong; thus, explaining 16 per cent or more of the variation ($R^2$)

between the independent and dependent variables will be considered relatively substantial.

The first analysis of Senate data included twenty-four independent variables of which many were similar measures of the same phenomena, or were found to covary highly with each other. Variables four, five, and six, for example, were all measures of the degree to which a state could be considered urban or rural.* Each, however, measured a slightly different aspect of the question. Population per square mile is a measure of the population density of a state and may or may not covary highly with per cent of the population that is urban. Both measures seem useful for although the great majority of a state's population may be classified as urban, it may hide the fact that the state also has a great "wilderness" expanse. One additional measure of the urban-rural question involved using Congressional Quarterly's three part division of populations into Urban-Suburban-Rural.[29]

Urban = More than 50 per cent of the population lives in a central city of 50,000 population or more.

Suburban = More than 50 per cent of the population lives in an "urban fringe" area contiguous to a central city.

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*These variables correspond to those listed in Table IV-1.

Rural = More than 60 per cent of the population lives in areas other than the central city or the urban fringe.

The addition of this third measure was intended to provide an updated measure of "urban" as the U.S. Census Bureau defines urban as places with 2,500 inhabitants or more. This definition seemed inappropriate for this study as it was hypothesized that most of the support for gun restrictions would come from urban areas with population concentrations well in excess of 2,500 inhabitants. The 50,000 plus definition of urban, therefore, was expected to produce higher-order correlations in the urban-rural split than a definition based on 2,500. Indeed, the problems of crime and violence endemic of urban sprawls, and at which gun legislation seemed to be aimed, appear more common to population concentrations of over 50,000. If it is hypothesized that Senators from states with these characteristic urban sprawls supported gun restrictions while Senators from states without such urban concentrations did not, the use of an "updated" definition of "urban" seems in order.

All of the correlation coefficients in Table IV-2 are above the .4 level and thus point out an apparently strong relationship between firearms voting scores and the population density measures. The highest correlation between gun vote and the independent variables is with variable number six. This correlation should be viewed

TABLE IV-2.--Correlation Coefficients of Population Density Variables and Firearms Roll Calls.

| | | (4) | (5) | (6) | (25) |
|---|---|---|---|---|---|
| Population per square mile | (4) | 1.0 | | | |
| Percent population Urban | (5) | .57 | 1.0 | | |
| Urban-Suburban-Rural | (6) | .60 | .76 | 1.0 | |
| Firearms Guttman Scale Score | (25) | - .57 | - .51 | - .70 | 1.0 |

with some distrust, however, as variable six is an ordinal arrangement of data based on the definition of Urban-Suburban-Rural presented earlier. Indeed, trichotomizing one of the variables is likely to produce correlation coefficients of a higher order than if the data were to remain separated or in a larger number of groups. Using a Spearman rank order correlation with variable six would have been statistically more correct but unfortunately comparison between Pearson r and Spearman r is tenuous; and it was deemed important that all three independent variables be roughly comparable in their relationship to the dependent variable so that the effect of the different definitions of urban could be viewed. Additionally, the concern at this point is less with the exact value of r and more with the relative values of r using different independent variables.

With these qualifications in mind an analysis of Table IV-2 shows the following: (1) Not unexpectedly, the independent variables intercorrelate at fairly high levels; (2) Population per square mile seems to be only

a slightly closer approximation of defining an urban area as50,000 inhabitants or over (.60) than in defining it as an area of 2,500 or more inhabitants (.57); (3) Higher correlation coefficients between the dependent and independent variables are recorded using independent variables defining urban as 50,000 or more inhabitants. This last point would seem to give partial support to the hypothesis that much of the support for gun restrictions came from the states with the larger urban concentrations. Further analysis on this point is necessary, however, as the correlations in Table IV-2 are suspect to some inadequacies.

Additional information is provided by noting the differences among the mean ($\bar{X}$)values of population per square mile in respect of Senate Guttman firearms scores. The Guttman scale scores were placed into one of three categories reflecting the three groups of Senators outlined in Chapter II: (1) Opposed to firearms restrictions; (2) Supportive of firearms restrictions; (3) Mixed voting patterns.

It is clear from Table IV-3 that unanimous support for gun restrictions came from those states which were by far the most densely populated. It is also clear that the least densely populated states as a rule were also the least supportive of gun restrictions. A further identification of the specific states in scale categories one and two indicate these states were of two types: (1) states

TABLE IV-3.--$\bar{X}$ Population Per Square Mile and Firearms Voting: Senate.

| Category | Scale Scores | N | $\bar{X}$ Population/Square Mile |
|---|---|---|---|
| Supportive | 1 | 19 | 324.26 |
| | 2 | 8 | 114.50 |
| Mixed | 3-9 | 22 | 48.85 |
| Opposed | 10 | 25 | 38 |
| | 11 | 15 | 22.27 |

like New Jersey with large suburban and urban concentrations and little rural population; or (2) states like New York with both large urban sprawls and large rural areas. The tendency seems clear in the Senate, at least, that states with very large urban concentrations generally supported gun restrictions even if there were also large rural settings within the state. The exceptions to this are regional; that is, Senators from the South and Rocky Mountain states having moderately large urban concentrations still opposed most gun restrictions.

Data from the House of Representatives was useful in substantiating this relationship between population density and firearms voting. Over 90 per cent of the Representatives from the Nation's 20 largest cities voted in favor of H.R. 17735.[30] The 10 per cent who opposed restrictions were primarily from the South and West (Los Angeles, Dallas, New Orleans, St. Louis, and San Antonio). A comparison of the mean population density for the two

most extreme groups of House firearms voters clarifies this point further. In the House, the extreme opposition group was defined as always opposed to gun restrictions on the three House gun roll calls, while support was defined as favoring restrictions on these three roll calls.*

TABLE IV-4.--$\bar{X}$ Population Per Square Mile and Firearms Voting: House.

| Group | N | $\bar{X}$ Population/Square Mile |
|---|---|---|
| Opposition | 119 | 194.4 |
| Support | 199 | 6538.24 |

As should be expected, the mean differences are even more striking than in the Senate. Apparently, the more homogeneous character of Congressional Districts yield greater differences, although it should be clear that this House data simply confirms what was originally uncovered using Senate data. There is also some confirmation of the Senate data which tended to demonstrate that some rural areas in states with a large urban center also supported gun restrictions. For example, thirty-eight of New York's forty-one districts supported all the gun bills as did twenty of Illinois' twenty-four districts. Thirteen

*A fourth House roll call on firearms is discarded permanently because of voting margins (412-11).

of Michigan's nineteen, and fifteen of Pennsylvania's twenty-seven districts also supported all the gun measures. Twenty-three of California's thirty-eight districts supported all gun measures.

Suburban areas supported gun restrictions overwhelmingly as a tabulation of gun support in the House was made for all districts classified by Congressional Quarterly as suburban. Ninety-five per cent of these suburban districts supported all of the gun bills. The close proximity of suburban areas to the urban problems of crime and violence likely account for a good deal of this support.

Generally, those states whose Congressional delegations most consistently opposed gun restrictions had no large urban centers. Indiana, for example, although close to Chicago, had only three of its eleven Congressmen supporting all the gun bills. A weak tendency, therefore, may be noted for state Congressional delegations to vote similarly; that is, there is a greater probability that rural Congressmen will favor gun restrictions if somewhere in the state there is a very large urban center.

The description of proponents and opponents drawn simply in terms of population density does not seem to be sufficient for characterization. For this reason, a number of measures of state economic activity were used to further differentiate the opposing gun factions. Table IV-5 lists these variables and their inter-correlations.

TABLE IV-5.--Intercorrelation Coefficients of Economic Variables and Correlation Coefficents with Firearms Voting.

| Variables | | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 24 | 25 |
|---|---|---|---|---|---|---|---|---|---|---|
| Median Income | (11) | 1.0 | | | | | | | | |
| Percent of Males Unemployed | (12) | .05 | 1.0 | | | | | | | |
| % Work Force/Blue Collar | (13) | .02 | .09 | 1.0 | | | | | | |
| %Work Force/Farm Worker | (14) | - .57 | - .13 | - .73 | 1.0 | | | | | |
| %Work Force/White Collar | (15) | .81 | .08 | - .17 | - .52 | 1.0 | | | | |
| Median Dollar Value, Owner Occupied Units | (16) | .80 | - .23 | 00 | - .44 | .65 | 1.0 | | | |
| Median $ Rent | (17) | .85 | .23 | - .19 | - .32 | .72 | .60 | 1.0 | | |
| Military Wage | (24) | .18 | .21 | - .05 | - .18 | .28 | .20 | .33 | 1.0 | |
| Guttman Firearms Score | (25) | - .43 | .05 | - .37 | .50 | - .29 | - .45 | - .25 | .09 | 1.0 |

As should be expected, a large number of these economic measures covary highly with each other. Median dollar rent, median dollar value of owner occupied units, and per cent of the work force that is white collar understandably covary highly with median income. In turn, it should be expected that each of these would correlate similarly with firearms voting records. Although the signs are similar in such correlations, the strength of the correlation varies with the independent variable. Median income and Median dollar value of owner occupied units correlate strongly (-.43 and -.45) with firearms voting.* Per cent of the work force that is white collar and median dollar rent correlate less strongly with firearms voting (-.29 and -.25 respectively). The reasons for such an apparent split in the effects of independent variables which inter-correlate highly among themselves is not immediately clear. What does seem evident, however, is that a positive condition of support exists among the wealthier states for firearms controls. House data supports the conclusion that wealthier areas gave strong support to gun measures. It is also clear that the very richest districts, i.e., those with a median dollar value for owner occupied housing units of about $18,000, gave substantial support to firearms legislation. Indeed, 95

*The lower the Guttman scale score, the stronger the support for firearms restrictions.

TABLE IV-6.--House Districts: Median Dollar Value--Owner Occupied Units and Firearms Voting.

| Group | N | Median Dollar Value | % of Group above $10,000 | Number in Group above $18,000 |
|---|---|---|---|---|
| Support all Gun Bills | 199 | $18,957.49 | 89.4 | 29 |
| Oppose all Gun Bills | 119 | $10,003.33 | 30.8 | 0 |

per cent of these districts voted to support all restrictive gun measures in the House.

The high intercorrelation of median income and median dollar value of owner occupied units (using Senate data), coupled with similar correlations with firearms voting (-.43 and -.45 respectively), indicates the two variables probably measure a similar phenomenon. It also appears that these two variables are better predictors of gun voting than either per cent of the population--white collar or median dollar rent. In addition, as white collar is defined broadly by the Census Bureau as "all professional technical, clerical and sales workers, and all managers, officials and proprietors," they may be concentrated in urban densely populated areas, but they may also be found in large numbers in rural areas as well. Thus, it should not be expected that white collar workers will correlate as highly with density measures as do farm workers; they indeed do not (.25 compared to -.47 respectively). Likewise, if population density is held to be one of the strongest forecasters of gun voting, per cent farm workers should correlate higher with gun voting than per cent white collar; this also is the case (.50 and -.29 respectively). It is also likely median income and median dollar value of dwellings reflect more accurately the various economic strata of society, as per cent white collar and median dollar rent likely do not vary considerably between the middle or upper middle and upper classes. If gun

voting is associated with wealth, as in part is suggested here, the more accurate measure of high wealth will produce higher correlations.

The strongest correlation between any of the economic variables and gun voting in the Senate is with per cent of the work force that is farm worker. The correlation (.50) is positive, indicating a strong propensity to vote against gun restrictions if the occupation is farming. This certainly is not surprising as rural areas have already been shown to oppose firearms restrictions fairly consistently. Indeed, population per square mile and per cent of the work force that is farm labor correlate similarly with gun voting (-.57 and +.50 respectively).

The correlation coefficient of -.37 for blue collar workers and the firearms scale scores can only be described as moderate. In part this is the result of the crazy quilt definition of blue collar employed by the Census Bureau: all craftsmen, foremen, operatives, service workers, private household workers, and laborers. The result is that blue collar workers, unlike farm workers or white collar workers may be found in both rural and urban areas in great abundance. Indeed, Congressional Quarterly reports that of the top thirty blue collar Congressional Districts, ranked according to the per cent of the work force--blue collar, sixteen are urban districts and fourteen are classified as rural.[31]

All sixteen urban blue collar districts consistently supported gun restrictions. Eight of the fourteen rural blue collar districts consistently opposed gun legislation; all of these rural districts were in the South, however. The remaining six rural blue collar districts favored gun controls but were in the East or Midwest. These findings are consistent with the -.37 correlation. It seems also to confirm the relative importance of the rural-urban split, although the importance of regional splits also seems to be reconfirmed.

Early in this research there had been indications that strong opposition to gun controls were voiced by the hunting industry, more specifically, from states where hunting was a popular sport. There was no necessary regulatory connection between gun restrictions and hunting, but hunting associations and hunting magazines attempted to convince their readers that gun controls were a first step toward eventual confiscation, or at best restriction of the legitimate uses for guns like hunting. Editorials in the American Rifleman and other hunting magazines which called for letter writing campaigns against gun restrictions produced mountains of mail in Senators' offices.

Ideally, the measurement of such phenomena in terms of constituency characteristics would most appropriately include an estimation of the percentage of the population "regularly" engaged in hunting activities.

This kind of measure was not available, but a reasonable approximation of it was. Figures were available on the number of hunting licenses issued by each state.[32] The data was for the fiscal year 1967 and included two types of information: (1) gross cost to hunters for hunting licenses in each state; (2) number of hunting licenses in each state. The best predictor of gun voting for all states is the per capita number of hunting licenses issued. This measure provides a relative gauge of hunting interest in each state; absolute figures tend to hide the relative numerical importance of hunters in a given state. That is, per capita measures of hunting activity approximate a relative measure of the public popularity of hunting in states. This is demonstrated by the change in signs when moving from per capita to total figures. The negative signs result from several large industrial states, somewhat densely populated, having very large numbers of licensed hunters and large amounts of hunting revenues. Eastern states such as Pennsylvania, New York, and Michigan have three of the four largest totals for licensed hunters. A per capita measure for each of the state totals more accurately reflects the numerical importance of hunting enthusiasts.

The number of people engaged in hunting is also a better indicator of hunting activity than is state license revenues as differences in the cost of hunting licenses among states skews measurement of the importance

TABLE IV-7.--Correlation Coefficients of Hunting Activity and Gun Voting by State.

| | Total Hunting Licenses Issued | Hunting Licenses Issued per Capita | Total Cost to Hunters for Licenses | State per Capita Revenue for Hunting Licenses |
|---|---|---|---|---|
| State Firearm Guttman Score ALL STATES | -.15 | .48 | -.05 | .26 |
| State Firearm Guttman Score, Southern States excluded | -.10 | .62 | -.06 | .31 |

of the hunting industry. But figures measuring the total economic impact of hunting on a state might be found to correlate highly with opposition to firearms restrictions while the restricted range and minimal impact of licensing fees do not. Data on the full range of the economic impact of hunting was not available, however. Of course, such data would have been very useful in establishing a relationship between the economic dimensions of the hunting industry and firearms voting. The moderate measure of such economies used here, i.e., income from licensing fees, suggests (r of .26) hunting income and opposition to restrictions are positively associated. But there is no necessity to conclude, nor is there any evidence to support, that any of the legislation contemplated in the Senate would have had disastrous consequences on these revenues. To this end, several amendments to Title IV and to H.R. 17735, insisted upon by Western Senators to protect the legitimate hunting uses of firearms, were passed by the Senate. The high inter-correlation between the number of hunters and hunting revenues, however, leaves open the question of how important economic considerations were in relation to questions of "restricting a life style." That is, was Senate opposition explicable in terms of potential economic disaster for the Western states or was it the product of sentiment and fear that the traditional and habitual use of firearms was threatened? Unfortunately, this study cannot answer that question,

primarily because of the lack of data. In the absence of conflicting evidence it seems reasonable that both issues were variously important in the make-up of opposition.

The states with the largest percentages of people engaged in hunting are the most opposed to gun restrictions. The importance of the percentage measure cannot be over-estimated; Michigan and New York, for example, have over 1,000,000 licensed hunters (three times as many as any Western state). Senators in both states overwhelmingly supported gun restrictions. In both states, however, large concentrations of urban living non-hunters overshadowed the effect of the hunter and his opposition to gun restrictions. Yet, there is no indication that the non-hunting public was as vocal in supporting gun restrictions as the hunter was in voicing opposition.

This is important for understanding, in part, the structure of opposition and support for gun restrictions. Information presented here and earlier indicates the presence of a vocal state hunters' "lobby" was a necessary but not a sufficient condition for Senators to voice opposition to firearms restrictions. Nearly all states whose Senators voiced opposition to restrictions had a relatively large percentage of the state's population licensed for hunting; several states, however, with large numbers of licensed hunters supported restrictions. In these latter cases large urban concentrations are found

in each of the states; the effect of the "hunting lobby" in such states is lessened under these circumstances. This serves to support the finding made earlier that states with both rural and large urban concentrations tended to support gun restrictions. Unfortunately, data on the number of licensed hunters by Congressional District is not available and cannot be used to test this finding further. The importance of the closeness of an urban concentration seems apparent, but the strength of the correlation between gun voting and licensed hunters also is important to note.

The inter-correlation between population density and the number of hunters in a state is high (-.68) which leaves the question of whether hunters or some general rural orientation to life had the greatest negative effect on gun restrictions. But part of the rural orientation to life includes the rifle hanging over the mantle. Two factors, then, become associated with an urban-rural split. First, the incidence of crime, especially violent crime, correlates positively with urban densities. The interpretation of firearms legislation as being directed toward the problem of urban crime, rather than any manifest rural firearms problem, is consistent with the findings above. So too is the view that National firearms controls would restrict and penalize rural populations more than the urban. In this latter respect, the banning of mail order sales is seen as limiting the chief sources of firearms

materials for rural populations, while not measurably affecting or limiting the availability of firearms in the omnibus commercial markets of the urban setting.

The urban-rural split is not simply the product of a single issue of life style or of crime, but of both. The patterns of support and opposition outlined above suggest a careful weighing of both factors played a crucial role in determining the structure of opposition and support. The relative propinquity of large urban areas balanced against the habits of firearms use can explain much of the voting behavior. The strength of regional voting patterns can in large measure also be related to such factors for population density and firearms usage both have regional identifications.

Earlier, it was suggested wealth correlated positively with support for gun restrictions. Many of the nation's richest districts are adjacent to major metropolitan areas and the theme of "protecting property" from the increased incidence of urban crime may be viewed in respect of this closeness. One facet of this theme involved the urban race riots of the mid-sixties. The thesis has loosely been advanced that the recent urban riots produced distrust and uneasiness in the black and white populations of urban-suburban concentrations; the distrust, in turn, was held to have overshadowed the crime related reasons for gun restrictions and produced, instead, a public reaction in both black and white

communities to keep the arms of self defense free from restraints. Did suburban representatives, especially those from districts close to the major mid-sixties riots, support restrictive gun bills? Did predominately black and/or ghetto black district representatives support or oppose restrictions? (This, in view of the fact that several radical black organizations, including the Black Panthers, openly opposed gun restrictions for obvious reasons.) Did the percentage of the states population that was Negro covary with Senate voting?

TABLE IV-8.--Correlation Coefficients Between Percentage of Population--Negro and Firearms Voting.

| | All States or All Districts | All Non-Southern States or Districts |
|---|---|---|
| Senate Firearms Scale Scores | .24 | -.32 |
| House Firearms Voting | .15 | -.51 |

Figures from Table IV-8 indicate differences between the Senate and the House in respect of the two variables are to be measured in degree rather than in kind. House firearms voting refers to a single vote on July 24 on an amendment by Representative MacGregor to exclude ammunition from provisions of H.R. 17735. The bill and the roll call were reflected here so that a yes vote meant rejection of this attempt to weaken provisions

of H.R. 17735. With a yes vote being recorded as a one (1) and a no vote as a two (2), support for gun restrictions assumed a lower value (1) relative to opposition (2). This is consistent with Senate Guttman scale scores where the lower score indicates support for restrictions and the higher score opposition to restrictions. It should be expected, therefore, that if per cent of the population that is Negro covaries positively with support for gun restriction, the correlation should be negative. This was the case only in respect of non-Southern states. The broad and general opposition of Southern Senators and Representatives, to gun restrictions, has already been discussed; with much of the nation's Negro population located in the Southern states, the positive correlations between per cent Negro and opposition to firearms restrictions is understandable. However, the expected negative correlation between the two variables is produced when Southern States and Districts are excluded from the analysis. With a majority of the non-Southern Negro population living in urban areas, it is clear that Representatives from urban "black" Districts tended to support gun restrictions.

To examine the question of race riots and their effect on firearms legislation more closely, review was taken of the voting records of Representatives from districts in and surrounding Newark, Chicago, Detroit, and

Los Angeles. Specifically, how did Congressmen from and about these "riot torn" areas vote on firearms legislation?

None of the House roll calls in Table IV-9 dealt with the issue of registration-licensing. Two roll calls concern amendments to H.R. 17735: Roll call #19 is the MacGregor amendment described earlier; roll call #21 came on an amendment by Congressman Latta to "exempt people, organizations, and institutions engaged in competition and military training from provisions" of H.R. 17735. The bill had the obvious favor of the National Rifle Association. Roll call #22 concerned the final passage of H.R. 17735. A nay vote on roll calls #19 and #21, coupled with a yes vote on #22 would produce the most consistently supportive position on gun restrictions.

In every district but one with a Negro population of 20 per cent or more, the most supportive voting record on restrictions (2,2,1) is recorded. The one exception is Chicago's Second District with a Negro population of 20 per cent. Even so, pro-regulation stances were taken on roll calls #19 and #22.

Districts classified as urban but with less than 20 per cent black population and located close to the urban core generally supported restrictions. The same may be said of suburban, white, high income districts bordering the urban core. Only one district (California's seventeenth) took the most negative stance on restrictions (1,1,2); the District ranks 67th nationally in median

TABLE IV-9.--Firearms Voting and Selected Urban Areas.

| City Referent | Congressional District # | CQ Classification | % of the Population/Negro | Median Dollar Value of Owner Occupied Housing | Position on Firearms Restriction* Roll Call No. 19 | 21 | 22 |
|---|---|---|---|---|---|---|---|
| Detroit | 1 | Urban | 52 | 11313 | 2 | 2 | 1 |
| | 13 | Urban | 55 | 8556 | 2 | 2 | 1 |
| | 14 | Urban | 04 | 13565 | 2 | 2 | 1 |
| | 15 | Urban | 5 | 13239 | 2 | 2 | 1 |
| | 16 | Suburban | 9 | 12560 | 2 | 2 | 1 |
| | 17 | Urban | 2 | 13742 | 2 | 1 | 2 |
| | 18 | Suburban | 2 | 14914 | 2 | 2 | 1 |
| Los Angeles County | 17 | Suburban | 4 | 14700 | 1 | 1 | 2 |
| | 19 | Suburban | 0 | 14300 | 2 | 2 | 1 |
| | 20 | Urban | 4 | 19200 | 1 | 1 | 1 |
| | 21 | Urban | 63 | 11000 | 2 | 3 | 3 |
| | 22 | Urban | 1 | 18100 | 2 | 2 | 1 |
| | 23 | Suburban | 3 | 13800 | 1 | 1 | 1 |
| | 24 | Suburban | 1 | 17100 | 1 | 1 | 1 |
| | 25 | Suburban | 0 | 13600 | 2 | 2 | 1 |
| | 26 | Urban | 6 | 20700 | 2 | 2 | 1 |
| | 27 | Urban | 2 | 15600 | 1 | 1 | 1 |
| | 28 | Urban | 1 | 24300 | 2 | 2 | 1 |
| | 29 | Urban | 0 | 13900 | 2 | 2 | 1 |
| | 30 | Urban | 16 | 15300 | 2 | 2 | 1 |
| | 31 | Urban | 16 | 16000 | 2 | 2 | 1 |
| | 32 | Urban | 2 | 14000 | 2 | 1 | 1 |

TABLE IV-9.--Continued.

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Newark | 5 | Suburban | 2 | 17700 | 2 | 2 | 1 |
| | 7 | Suburban | 2 | 20200 | 2 | 1 | 1 |
| | 8 | Urban | 7 | 17000 | 2 | 2 | 1 |
| | 9 | Suburban | 2 | 18300 | 2 | 2 | 1 |
| | 10 | Suburban | 18 | 17500 | 2 | 2 | 1 |
| | 11 | Suburban | 25 | 17500 | 2 | 2 | 1 |
| | 12 | Suburban | 6 | 19700 | 2 | 2 | 1 |
| | 13 | Urban | 12 | 15200 | 2 | 2 | 1 |
| | 14 | Suburban | 3 | 13900 | 3 | 3 | 1 |
| | 15 | Suburban | | | 2 | 2 | 1 |
| Chicago | 1 | Urban | 87 | 16800 | 2 | 2 | 1 |
| | 2 | Urban | 20 | 16600 | 2 | 1 | 1 |
| | 3 | Urban | 20 | 18500 | 2 | 2 | 1 |
| | 4 | Suburban | 4 | 17100 | 2 | 2 | 1 |
| | 5 | Urban | 5 | 16900 | 2 | 2 | 1 |
| | 6 | Urban | 28 | 17600 | 2 | 2 | 1 |
| | 7 | Urban | 29 | 11400 | 2 | 2 | 1 |
| | 8 | Urban | 0 | 16500 | 2 | 2 | 1 |
| | 9 | Urban | 6 | 22000 | 2 | 2 | 1 |
| | 10 | Suburban | 1 | 20800 | 2 | 1 | 1 |
| | 11 | Urban | 0 | 20800 | 2 | 1 | 1 |
| | 12 | Mixed | 3 | 16900 | 2 | 2 | 1 |
| | 13 | Suburban | 3 | 25000 | 2 | 2 | 1 |
| | 14 | Suburban | 3 | 18500 | 1 | 1 | 1 |

*1 = yea; 2 = nay; 3 = absent.

income.[33] Six other California Districts in Los Angeles County displayed inconsistent voting patterns; all of the six voted in favor of H.R. 17735 but variously favored weakening the scope of the bill in roll calls #19 and #21. The same is true for the New Jersey tenth and fourteenth districts. Michigan's sixteenth District Representative voted inconsistently on gun restrictions but, importantly, opposed H.R. 17735. The Sixteenth District includes Dearborn, which for years has maintained a housing policy exclusionary of blacks.

In general, the data from Table IV-9 does not support the hypothesis that urban and suburban white districts located close to black riot torn urban cores opposed gun restrictions. Quite to the contrary, the tendency is for all factions to support restrictive legislation: black and white, suburban and urban, wealthy and poor. In particular, there is confirmation that the richest districts supported restrictions. Riots in these areas did not seem to adversely affect the general propensity of urban districts, as well as suburban districts, to favor firearms restrictions. If there is any concentration of opposition to gun restrictions here it appears most often in the white middle class districts immediately adjacent to the urban core; but the data here does not confirm any general hypothesis that whites fearful of ghetto riots sought to avoid gun restrictions as to maintain their potential for self-defense.

It is unfortunate that registration roll calls were not taken in the House; firearms registration proved to be the most volatile issue in the Senate, and its analysis using the more homogeneous House districts might have demonstrated different patterns than those displayed above.

Several of the variables in this study concerned questions of partisan and electoral behavior and their relationship to gun voting. Several measures of electoral competitiveness were assembled for both the House and the Senate and related to firearms voting. The issue underlying these measures is whether margins of electoral plurality relate to gun voting.

TABLE IV-10.--Correlation Coefficients Between Firearms Voting and Measures of Electoral Competition.

| | Senate Scale Scores | | House Voting on H.R. 17735 | |
|---|---|---|---|---|
| | All States | non-Southern | All States | non-Southern |
| Senate Seat Electoral Plurality | .14 | .09 | -- | -- |
| House Seat 1966 Electoral Plurality | -- | -- | .23 | -.04 |
| House Seat 1968 Electoral Plurality | -- | -- | .29 | .07 |

There is little relationship apparent between firearms voting and electoral competitiveness. Although the signs of the correlation coefficient using Senate and House seat competitiveness give an indication that the less competitive districts were more opposed to gun restrictions, the strength of the correlations are very weak. Indeed, much of the value of the correlations can be traced to Southern states and districts where the near uniform lack of electoral competition can be matched to the near uniform rejection of almost any form of gun restriction. The correlations excluding Southern states would seem to confirm this interpretation. Competitiveness defined in terms of plurality in elections does not seem to provide any value as an explanatory or predictive agent.

Likewise, data for electoral pluralities in the 1960 Presidential elections, collected for each state and Congressional District, produced similarly weak correlations when compared to gun voting.

Another potential measure of competitiveness is whether an incumbent running for re-election wins. Actually, the intent here was less with attempting to measure competitiveness and more with trying to discover if those who supported gun restrictions were re-elected to the 91st Congress. Unfortunately, the data available to test this query was far from adequate. The small N of Senators seeking re-election during 1968 (less than 30) meant fruitful analysis in the Senate was nearly impossible.

The House data offered little additional help on this matter; of the 408 Representatives available for analysis on MacGregor's gun roll call, only thirty-five representatives were not re-elected to the 91st Congress. Thirty-two of the thirty-five did not seek re-election. $X^2$ and C statistics were run, however, for a contingency analysis of House gun voting, compared to those who ran and won or did not run at all. Predictably, the $X^2$ was barely significant (4.38) and the C value extremely weak (.103). Interestingly, slightly larger than expected frequencies of opposition to restrictions were recorded among those who did not seek re-election.

Even though district electoral competition does not seem to be related to gun voting, rumors persist that the National Rifle Association was strong enough in some states to guarantee the defeat of marginal candidates who supported gun restrictions. It is widely reported, for example, that Senator Tydings' recent defeat is attributable to Rifle Association activity. The data here will not provide conclusive proof on this matter one way or the other.

Even though electoral competition does not seem to affect gun voting, the question of partisan identification and its relation to gun voting remains to be further analyzed here. Chapter II offered the conclusion that although partisan differences were to be noted in the scale extremes of Senate firearms voting, the partisan

nature of gun voting was not firmly established. Indeed, an examination of states with Senators from different parties demonstrated far greater differences between states and regions than between parties. The question remains, therefore, one of deciding in what respect partisan cleavages actually manifested themselves on the firearms issue.

A strict enumeration of partisan identification into Democrat and Republican hides the fact that Southern Democrats very often have voting records more similar to Republicans than to Democrats. In order to take this fact into proper account, "partisan identifications" will deal with the problem of Southern Democrats by noting their voting records in three different ways: (1) no distinction between Southern and non-Southern Democrats; (2) Southern Democrats excluded from the analysis; (3) Southern Democrats coded as Republicans.*

Table IV-11 demonstrates conclusively that the association of party and firearms voting is not significant when a strict Democratic-Republican dichotomy is drawn. It is only after Southern Democrats have been either excluded from the analysis or coded with Republicans that partisan divisions become significant. But the $X^2$ and C values are only consistently strong when Southern

*This third alternative recognizes the popular method of grouping Southern Democrats and Republicans under the heading of "conservative coalition."

TABLE IV-11.--$X^2$ and C Statistics for Analysis of Party Firearms Voting.

| Firearms Roll Call | All Senators | | Southern Democrats Excluded | | Southern Democrats Coded as Republicans | |
|---|---|---|---|---|---|---|
| | $X^2$ | C | $X^2$ | C | $X^2$ | C |
| #38 May Long Gun Amendment | .10 | .03 | 1.66 | .13 | 6.06 | .25 |
| #39 May Long Gun Amendment | .6 | .08 | 3.06 | .18 | 8.38 | .29 |
| #58 Sept-Exclude Ammunition | .93 | .11 | 10.56 | .36 | 20.73 | .47 |
| #59 Tighten Qualifications for dealers | 3.7 | .20 | 12.5 | .35 | 23.84 | .46 |
| #63 Brooke's Long Gun Registration Proposal | .00 | .00 | 1.05 | .11 | 4.64 | .22 |
| #61 Tyding's Long Gun Registration Proposal | 1.9 | .14 | 6.28 | .25 | 12.78 | .35 |
| #64 Tyding's Handgun Registration Proposal | .41 | .06 | 3.44 | .19 | 9.21 | .30 |

Democrats are coded as Republican; simply removing Southern Democrats from the analysis does not significantly improve $X^2$ and C. Indeed, the association between party and firearms voting using non-Southern Senators is only significant for roll calls #58 and #59, and for only one of the three registration bills (#61). The voting patterns of non-Southern Senators do display some partisan division on these roll calls as, generally, twice the number of Democrats support gun restrictions as Republicans. But it must be remembered that the Northern states west of the Mississippi account for most of the gun restriction support and Democrats outnumber Republicans in these states. Large numbers (the great majority) of both non-Southern Republicans and Democrats west of the Mississippi oppose gun restrictions. Under these circumstances it is not surprising $X^2$ and C values are low for partisan alignments.

There is no denying that coding Southern Democrats as Republicans produces significant and strong findings; the logic and propriety of doing such, however, is questionable. First, grouping Southern Democrats and Republicans along some supposed ideological dimension, i.e., the "conservative coalition," does not seem reasonable in the fact of overwhelming evidence that regional identification and measures of population density are so strongly associated with firearms voting. This is especially true in view of the fact that Southern and Western voting records on some of the other issues examined in Chapter III were seen to vary considerably. Second, grouping Southern

Democrats and Republicans serves to maintain the fallacy that both groups were equally cohesive in their voting patterns on firearms restrictions; this is far from accurate. Republicans tended to split regionally with 30-40 per cent of them usually supporting gun restrictions; Southern Democratic opposition, however, across most roll calls, was nearly monolithic.

Correlations between Senate Guttman scale scores and party identification corroborate the findings reported above. In sum, these correlations reflect the fact that a majority of Democrats (non-Southern) supported most measures to enact gun restrictions, while a majority of Republicans opposed such attempts. They also reflect, however, the important regional divisions running across party lines, existing irrespective of the Southern states. In sum, the weakness of both $X^2$ and correlation analysis testify to the inappropriateness of referring to the issue of firearms legislation strictly in partisan terms.

Four additional variables originally included in the study as curiosity items remain to be discussed. Table IV-12 lists these variables and their correlations with firearms voting records and population per square mile.

Neither of the measures of education correlate in any meaningful way with firearms voting records; but both per cent of the population that is foreign stock and median age correlate strongly with firearms voting. The

TABLE IV-12.--Correlation Coefficients Between Firearms Voting and Selected Variables.

| | | 7 | 8 | 9 | 10 | 4 | 5 |
|---|---|---|---|---|---|---|---|
| Percent of Population that is foreign stock | (7) | 1.0 | | | | | |
| Median age | (8) | .49 | 1.0 | | | | |
| Percent of Population completing 4 years of high school or more | (9) | .37 | .10 | 1.0 | | | |
| Median years of school completed | (10) | .45 | .26 | .62 | 1.0 | | |
| Population per square mile | (4) | .57 | .51 | - .03 | - .00 | 1.0 | |
| Senate Guttman scores | (5) | - .50 | - .47 | - .05 | - .03 | - .57 | 1.0 |

lack of correlation using median years of school completed is not surprising as the variation from state to state is slight. The variation in per cent of the population completing four years or more of school does vary more, however, and thus suggests educational variables have little association with gun voting.

The relatively high correlations using measures of foreign stock and age are difficult to explain. Intuitively there does not seem to be any necessarily direct association between these two independent variables and firearms voting. But re-examination of Table IV-12 offers some insight into the problem. The two independent variables which correlate strongly with firearms voting also correlate strongly with the measure of population density. On the other hand, the two variables having no apparent relationship to firearms voting also have no relationship to population density. This discovery is suggestive of a much wider application. Do those variables which correlate strongly with firearms voting also, as a rule, correlate strongly with population density? Is the converse also true? Table IV-13 presents data to supply an intial answer, an answer constructed only from the variables used here.

Table IV-13 presents strong evidence that population density is strongly related to those independent variables which are strongly related to firearms voting. In particular, it should be noted that the signs of the

TABLE IV-13.--Comparison of Correlation Coefficients Between Firearms Voting and Population Density Using all Other Independent Variables.

| Independent Variables | Guttman Firearms Scores | % of Population Urban | Population Per Square Mile |
|---|---|---|---|
| **Strong Correlations** | | | |
| (4) Population per Square Mile | - .56 | .56 | 1.0 |
| (5) Percent of the Total Population that is Urban | - .50 | 1.0 | .56 |
| (14) Percent of the Work Force that is Farm Worker | .50 | - .68 | - .48 |
| (7) Percent of Total Population that is Foreign Stock | - .48 | .43 | .54 |
| (8) Median Age | - .45 | .43 | .54 |
| (16) Median Dollar Value of Owner-occupied Units | - .43 | .44 | .37 |
| (11) Median Income | - .41 | .33 | .71 |
| **Moderate to Weak Correlations** | | | |
| (13) Percent of Work Force that is Blue Collar | - .37 | .21 | .36 |
| (1) Winning Party--Presidential Election 1960 | .32 | - .14 | - .34 |
| (15) Percent of the Work Force that is White Collar | - .28 | .72 | .23 |
| (23) Per Capita State Income from Hunting Licenses | .25 | - .18 | - .27 |
| (17) Median Rent in Dollars | - .24 | .44 | .16 |

TABLE IV-13.--Continued.

| | | | |
|---|---|---|---|
| (18) Percent of the Total Population that is Negro | .23 | - .26 | - .04 |
| (22) Senate Seat #2--Percent Plurality for Winning Party | .19 | - .29 | .06 |
| (19) Senate Seat #1--Winning Party | .18 | 0 | - .17 |
| (20) Senate Seat #1--Percent Plurality for Winning Party | .10 | - .14 | .13 |
| (2) Percent Vote Cast for Winning Party--1960 Presidential Elections | - .09 | .12 | .36 |
| (24) Per Capita State Military Related Wage | .07 | .06 | - .09 |
| (21) Senate Seat #2--Winning Party | .05 | .09 | - .06 |
| (3) Percent Change in Population: 1950-1960 | .04 | .44 | - .06 |
| (9) Percent of Population Completing Four Years of High School or More | - .04 | .21 | - .05 |
| (12) Percent of the Male Population Unemployed | .03 | - .26 | - .14 |
| (10) Median Years of School Completed | - .02 | .44 | - .02 |

correlations are nearly consistent throughout the table. That is, variables which covary positively with population density nearly always covary negatively with the Senate Firearms scale scores, and vice-versa. Secondly, it is noteworthy that all the variables which correlate above ±.4 with firearms voting, also correlate above ±.4 with population per square mile; with very few exceptions the variables correlating moderately to weakly with firearms (defined as less that ±.4) also correlated moderately to weakly with both population density and per cent of the population urban.

The exceptions in this latter case are limited to per cent of the population that is urban. There, four variables correlated strongly with per cent of the population that is urban but weakly with firearms voting (variables #15, #17, #3, #10). No such exceptions occur using population per square mile; the difference is likely due to the fact, as reported earlier, that population per square mile is a better measure of defining a state's urban population in terms of 50,000 or more inhabitants than as an area of 2,500 or more inhabitants. The important point here is that the independent variables covary with firearms voting and population per square mile more similarly than with firearms voting and per cent of the population that is urban.

The question remains as to whether various measures of population density are the only variables, which

inter-correlate similarly with firearms voting and the rest of the independent variables. To answer this question a computor program developed by John Hunter and Stanley Cohen, called Square R (SQRR)*, is employed here.[34] The program seeks to provide answers to the question, "how similar to each other are two variables in respect of their correlations with other variables?" An index varying from +1 to -1 is constructed to measure the amount of similarity; a score of +1.0 indicates perfect positive agreement, -1.0 perfect negative agreement, and 0.0 no agreement at all.

A comparison of the gun voting variable (#25) with all other variables to determine SQRR similarities produced important results: gun voting in terms of its correlations with all the other variables behaved most similarly to variable #4 (population density). The index of -.80 recorded between #25 and #4 was higher than any index reported between #25 and any of the other independent variables. The next closest index (-.78) was recorded using variable #5 which measures per cent of the population that is urban. The closeness of these two indices suggests the difference between variables #4 and #5, as measures of population concentration, do not differ as much as was supposed earlier. Six other variables recorded indices above ±.60 when compared to gun voting,

*SQRR is very different from $R^2$ so the two should in no way be considered synonimous.

but each of these variables also covaried strongly with the measures of population density.

There is no doubt the most important variables both in terms of independent effect and in terms of intermediary effects with other variables are population per square mile and per cent of the population that is urban.

## Summary

The importance of the urban-rural dimension in firearms voting is underscored in this chapter as Senators from states with large urban concentrations tended to support firearms restrictions, including registration provisions. Representatives from urban areas, especially those having population concentrations of over fifty thousand persons, tended to support all of the gun bills considered in the House of Representatives. The same pattern of support is noted for Representatives from suburban areas located adjacent to or close to these urban concentrations. Representatives from areas lacking such large urban concentrations, and rural in nature, characteristically opposed most of the proposals for restrictions on firearms. The exceptions to this urban-rural split are regional; that is, a larger proportion of urban representatives from the West opposed firearms legislation than did Eastern urban representatives; on the other hand, more rural support for the legislation is garnered in the East than in the West or South. In part, this may reflect

the fact that the East, on the whole, is more densely populated than the West. Even with these exceptions, however, the correlation coefficients between measures of population density and firearms voting proved to be consistently strong. Indeed, the broad underlying importance of the population density variable seemed to be confirmed when it was discovered that all the independent variables which correlated strongly with firearms voting also correlated strongly with measures of population density.

Several other variables, measuring other constituency characteristics, were correlated with firearms voting and produced mixed results. A very strong correlation coefficient is reported using a per capita measure of hunting activity in a state. Specifically, Senators from states with the greatest per capita number of hunting licenses generally opposed firearms restrictions. Such measures of hunting activity also correlated highly with measures of population density, leaving the implication that part of the rural opposition to firearms restrictions is explicable in terms of the more frequent use of firearms in rural areas. Measures of partisan identification and electoral competitiveness produced very low-order correlation coefficients, supporting the view held in previous chapters that partisan and electoral variables offer little value in explaining the gun vote.

The view that opposition to gun legislation may have stemmed from the ghetto riots of the sixties is not

confirmed in the analysis here. Representatives from "black" districts, except for the South, nearly unanimously supported all of the restrictive legislation. The same may be said for Representatives from the Urban and Suburban white districts surrounding the black urban core. If opposition to firearms restrictions cannot be associated with the proximity of riots, it may well be that support for such restrictions can be. The findings here indicate as much.

Several of the measures of economic variables, e.g., income levels and value of owner occupied homes, correlated strongly with firearms voting. In particular, representatives from richer districts supported gun restrictions while less affluent districts offered opposition. But the various economic variables also correlated highly with population density variables, suggesting the correlations between economic variables and firearms legislation were as much a product of the urban nature of wealth as they were of any necessary connection between firearms voting and the economic conditions of constituencies.

## FOOTNOTES--CHAPTER IV

[1]Edmond Burke, Reflections on the Revolution in France (New York: Arlington House). Also see, Eulau Wahlke, et al., "The Role of the Representative: Some Empirical Observations on the Theory of Edmund Burke," American Political Science Review, Vol. 53 (September, 1959), pp. 742-756.

[2]Warren E. Miller and Donald E. Stokes. "Constituency Influence in Congress," American Political Science Review, Vol. 57 (March, 1963), p. 45.

[3]Ibid., p. 46.

[4]Lewis A. Froman, Congressmen and Their Constituencies (Chicago: Rand McNally and Company, 1963), p. 5.

[5]Ibid., p. 7.

[6]Julius Turner, Party and Constituency: Pressures on Congress (Baltimore: Johns Hopkins Press, 1951). Also see, Jack Vanderslik's interpretation of Turner's work, pp. 23-24. Vanderslik reasons that the inordinate use of party as an independent variable is largely due to the lack of demographic and other census data in convenient, Congressional District, forms.

[7]Jack Vanderslik, Constituencies and Roll Call Voting: An Analysis of the House of Representatives for the 88th Congress (unpublished dissertation, Michigan State University, Department of Political Science, 1967), p. 6.

[8]See, for example, Paul F. Lazarsfeld, Bernard R. Berelson, and Hazel Gaudet, The Peoples Choice (New York: Columbia University Press, 1948). See also, Angus Campbell, Gerald Gurren and Warren E. Miller, The Voter Decides (New York: Harper Row and Company, 1954).

[9]Vanderslik, op. cit., pp. 184-188.

[10]Aage R. Clausen and Richard B. Cheney, "A Comparative Analysis of Senate House Voting on Economic and Welfare Policy: 1953-1964," American Political Science Review, Vol. 64 (March, 1970), p. 146.

[11]Miller and Stokes, op. cit., p. 49. Almost no correlation was found on the policy area of foreign affairs.

[12]Charles F. Cnudde and Donald J. McCrone, "The Linkage Between Constituency Attitudes and Congressional Voting Behavior: A Causal Model," American Political Science Review, Vol. 60 (March, 1966).

[13]Ibid., p. 52.

[14]Miller and Stokes, op. cit., p. 54.

[15]Joseph A. Schlesinger, Ambition and Politics: Political Careers in the United States (Chicago: Rand McNally and Company, 1966).

[16]Angus Campbell, Phillip E. Converse, Warren E. Miller and Donald E. Stokes, The American Voter: An Abridgment (New York: John Wiley and Sons, Inc., 1964), p. 282.

[17]Vanderslik, op. cit., pp. 16-17.

[18]The numerical code for each state follows the numbering system employed by the Inter-University Consortium for Political Research, Ann Arbor, Michigan. The States and their codes are printed in Appendix B.

[19]United States Bureau of the Census, Congressional District Data Book: Districts of the 88th Congress. A Statistical Abstract Supplement (Washington, D.C.: U.S. Government Printing Office, 1963). All supplements to the Data Book issued by the U.S. Bureau of the Census concerning reapportionments, and affecting the 1966 Congressional elections, were substituted.

[20]Congressional Quarterly Service, CQ Census Analysis: Congressional Districts of the United States (Washington: Congressional Quarterly Inc., 1964), pp. 1787-1798.

[21]Ibid., 1821-1828.

[22]Congressional Quarterly Service, Congressional Quarterly Weekly Report, Special Report, Vol. 26, No. 21, May 24, 1968, pp. 1168-1178.

[23]Congressional Quarterly Service, Congressional Quarterly Weekly Report, Vol. 20, No. 46, November 16, 1962, p. 2176. Also Vol. 22, No. 45, November 6, 1964, p. 2641, and Vol. 24, No. 45, November 11, 1966, p. 2786.

[24]Congressional Quarterly Service, Congressional Quarterly Weekly Report, Vol. 24, No. 45, November 11, 1966, pp. 2796-2801.

[25]Congressional Quarterly Service, Congressional Quarterly Weekly Report, Vol. 26, No. 46, November 15, 1968, pp. 3162-3167.

[26]Wildlife Management Institute and Sport Fishing Institute, Federal Aid in Fish and Wildlife Restoration, 1968, p. 27.

[27]Congressional Quarterly Service, Congressional Quarterly Weekly Report, Special Report, op. cit., p. 1167.

[28]Thomas A. Flinn, "Party Responsibility in the States: Some Causal Factors," American Political Science Review, Vol. 58 (March, 1964), p. 64.

[29]Congressional Quarterly Service, CQ Census Analysis, op. cit., p. 1807.

[30]Congressional Quarterly Service, The Congressional Quarterly Almanac--1968 (Washington: Congressional Quarterly Inc., 1969), p. 231.

[31]Congressional Quarterly Service, CQ Census Analysis, op. cit., p. 1819. The definition of urban and rural is the same as reported earlier for CQ data.

[32]Federal Aid in Fish . . ., op. cit., p. 27.

[33]Congressional Quarterly Service, CQ Census Analysis, op. cit., p. 1809.

[34]For details on this program contact the authors, John Hunter and Stanley Cohen, Department of Psychology, Michigan State University, East Lansing, Michigan.

# CHAPTER V

## SUMMARY AND IMPLICATIONS

This study has examined some aspects of the recent and continuing controversy over firearms legislation in the 90th Congress; specifically, it is a study of the firearms debate and voting in the 1968 session of the United States Senate. The goal of the study is explication of this issue of public policy rather than any manifest attempt to establish the worth of some overall model of legislative behavior, or to establish some general theories applicable to legislate behavior in general. Nevertheless, some of the findings in this study may have applications beyond simple explication of the firearms debate and vote.

With this in mind, a number of questions directly related to the issue of firearms regulation are examined in some detail. Do Anglo-Saxon and American legal traditions authorize regulation of the keeping and bearing of firearms? What rights does the Second Amendment protect? Is there any relationship between contemporary resistance to firearms regulation and the wording in some state

constitutions which apparently allow an individual right to keep and bear arms? What was the substance of the firearms issues before the Senate in 1968? What variables offer the major distinguishing characteristics between proponents and opponents of firearms regulation? More specifically, do various constituency characteristics, partisan and regional identifications, and voting divisions on other policy issues offer a means of describing opponents and proponents? Is there a suitable and reasonable explanation of the Senate division on the firearms issue?

## Summary of Findings

In Chapter I the constitutional questions in respect of gun control are examined extensively. Supreme Court cases, as well as a majority of scholarly literature, deny that the Second Amendment to the United States Constitution establishes an individual right to keep and bear arms. Rather, the amendment is viewed as merely protecting the rights of the states to maintain state militia forces. English legal traditions confirm a long standing "right" to keep and bear arms, but it is a right concomitant to the duty of every Englishman to serve in the militia and to provide his own weapon. This does not establish a principle that the possession and carrying of arms is necessarily to be tolerated outside militia service. Additionally, English Common Law allows the

regulation of use, carrying and possession of arms, such that no generally inviolable personal right to arms can be asserted. The force of American Colonial legal traditions, as well as the Second Amendment and the events and debates leading up to its adoption, confirm the view that the right to keep and bear arms is stated only in respect of a militia duty; Federal judicial interpretations have broadly upheld this view of the Second Amendment. The courts have generally rejected claims that the Second Amendment prohibits the Federal government and the states from interfering with the private possession and bearing of arms and, thus, have upheld numerous regulations as constitutional. State courts have usually avoided the key constitutional questions but have generally allowed various state laws limiting the bearing of arms.

The notable exception to the view that the right to bear arms is a collective, militia-related right comes in several state constitutions which allow the individual to bear arms for the defense of himself and the state. These state constitutions offer the only written evidence that the right to bear arms is a private right irrespective of militia duty. But many of these same states provide that this personal right to bear arms may be variously restricted by the state legislature. Additionally, 60 per cent of the state constitutions either omit reference to a right to bear arms altogether or include such a "right" closely following the

militia-related wording of the Second Amendment of the United States Constitution. Interestingly, the states providing for a personal right to bear arms, irrespective of militia duties, are primarily the Rocky Mountain and South West States, and the states located between the Mississippi River and the original thirteen states. There may be a note of the frontier in this last point, as all of these states were sparsely populated and wilderness in nature when the personal right to arms was first placed in their constitutions.

The great weight of historical data does not document unregulable right to the personal possession of arms. There are innumerable examples of regulations on the uses of arms, as well as the place and manner of bearing, being regulated, proscribed, and limited. And history records consistent approval of restricting the individual bearing of arms to protect the peace of society.

Chapter II considers the Senate firearms debates and votes of May to September, 1968. The firearms roll calls are submitted to Guttman scale analysis, and the first analysis of the firearms roll calls is attempted in respect of regional and party variables. The forms of firearms regulation considered by the Senate in 1968 concern two broad issues: (1) measures banning various firearms from the mails and from other forms of inter-state shipment, and (2) proposals for the registration-licensing of firearms and owners. Chronologically speaking, two

distinct battles over these issues were fought in the Senate. The first skirmish was fought in May prior to Senator Robert Kennedy's assassination in June, and was largely over the issue of whether long guns would be banned from the mail and inter-state shipment. The proponents of this measure lost, although they did win approval of similar prohibitions against handguns following Martin Luther King's April assassination. The second battle took place after Robert Kennedy's assassination and culminated in the passage in September of H.R. 17735. During this period, the issue of long gun prohibitions was reconsidered and passed, but the bulk of debate came over proposals for the registration of firearms.

Throughout the entire period of debate from May through September the regional patterns of support and opposition in the Senate were consistent and clear. The New England, the Mid-Atlantic and the East North Central States gave consistently strong support to gun control bills; opposition was strongest in the Southern and Rocky Mountain states, but the nature of Southern and Western opposition seemed quite different. Southerners protested in force that restrictions were a step away from confiscation and an eventual police state, while Western opposition seemed less politically motivated. That is, the West was less concerned that a police state was imminent but rather that gun restrictions would penalize

the law abiding sportsman and would do little to quell the increase in violent crimes.

The Guttman scaling of the Senate firearms roll calls attempted to discover if some cumulative pattern could be discerned in the roll calls; the results of the scale are statistically significant and indicate two dimensions are at work in the cumulative pattern. First, it is plain that the degree of restriction advocated, both in terms of the mode of regulation and the object of regulation, is reflected in the cumulative pattern. That is, numerically greater Senate support is given to bills advocating less restriction. Second, a time dimension is operative in the scale as the firearms issues before the Senate from May to September became more radical and support for these positions more generous after the two assassinations. The cumulative pattern of support is discernable in terms of both these dimensions.

Although there was some tendency for Republicans to be more critical of regulations than Democrats, partisan identification offered little help in distinguishing among Senators in terms of their scale scores on firearms roll calls. Indeed, partisan cleavages appear to be much less important in the analysis than do regional cleavages. In this respect there is almost no difference on firearms voting between Senators of different parties from the same state. By far the greatest differences in voting are recorded among regions. Correlations between party

and firearms voting using all states, as well as just non-Southern states, produced low-order correlation coefficients.

The electoral competitiveness of a state or a Congressional District was not found to associate in any meaningful fashion with firearms voting. The thesis that Senators and Representatives who expected tight election races in the future were opposed to gun controls is given no confirmation here.

The primary question of Chapter III concerns whether opposing groups on firearms legislation also divided similarly in terms of their voting on other selected issues. In this respect, it was found that supporters of gun restrictions generally favored welfare measures, as well as being generally disposed toward increasing the powers of the Federal government over a wide range of areas. But Southerners more uniformly opposed welfare measures than did Westerners and Westerners were also less inclined to reject further growth in Federal powers. In this respect also, Western opposition may have been less politically oriented. However, when the issue is framed in terms of Federal expenditures and the Federal budget, Northern-Eastern and Western-Southern divisions are much more consistently in line with divisions on the gun vote, for those who record opposition to gun restrictions are interestingly also those who oppose deficit financing.

Analysis of the roll calls confirmed the view taken from a reading of the debates that those opposed to gun restrictions were in favor of harsher penalties and treatment of criminals while the opposite was true for gun control supporters. Opponents of gun controls often voiced the concern that firearms regulations would only disarm the law-abiding citizen while stiffer criminal penalties and procedures would visit restrictions on the criminal alone. Supporters of gun legislation, on the other hand, viewed stiff gun control laws as an essential ingredient in controlling the criminal. Racially related roll calls, such as those dealing with open housing, did not produce similar divisions except that Southern opponents of gun legislation also predictably opposed fair housing measures. Western positions were more nearly split on the issue of open housing. An examination of the same relationships using House data also indicates opposition to gun restriction was not related to roll call votes on school bussing, suggesting opposition to gun controls was not racially motivated. There is some indication, however, that support for gun restrictions may have partially resulted from the ghetto riots of the sixties.

In the early analysis of the firearms debates it was found that those who opposed gun restrictions were fairly vociferous about the impending threat from internal subversion and external invasion. For Southerners, in particular, infringements on the nature of arms bearing in

the United States promised to produce the last line of defense against these enemies. But the hypothesized relationship between an anti-gun restriction stance and favorable votes for military expenditures was not produced. Indeed, there was almost no relationship apparent, in terms of voting divisions, across the two issue areas. Somewhat higher order relationships between gun control roll calls and roll calls dealing with trade with communist nations were reported. In particular, those opposed to gun restrictions favored restricting trade with communist nations (primarily Southern opposition) while those in favor of gun restrictions opposed such trade restrictions. On balance, the view that fear of communist aggression from within or from abroad dictated opposition to gun restrictions does not receive consistent support here.

In sum, the greatest similarity in voting divisions across the other issues occurs when comparing Southern opposition to Northern and Eastern support for gun restrictions. Although Western Senators voted similarly to Southerners on the gun issues, their voting behavior on other issues vis-a-vis the South was less similar. The possible exception to this latter point was over the issue of criminal penalties and legal procedures.

Chapter IV considers the relationship between the firearms votes of individual Senators and Congressmen and constituency characteristics. The demographic concepts

chosen for analysis reflect three questions: (1) Are relative differences in constituency urban-rural compositions associated with gun control voting? (2) Are differences in the economic characteristics of constituencies associated with differences in gun control voting? (3) Are differences in the racial compositions of constituencies related to gun control voting?

Measures of population density and urban-rural composition correlated strongly with firearms voting. Senators, as well as Representatives, from areas with large urban concentrations gave overwhelming support to gun restriction measures. This was especially true for states and Congressional Districts where urban concentrations of over 50,000 persons were common place. Representatives from rural areas tended to oppose gun restrictions except for those rural states and Districts in the East and Midwest adjacent or close to urban areas. The exceptions to a purely urban-rural division over firearms voting are largely regional; that is, some representatives from urban areas in the South and the West opposed gun controls.

Economic variables such as median income, per cent of the work force blue collar, white collar, or farm worker, median rent, and median dollar value of owner-occupied units generally correlated strongly with firearms control voting. Specifically, representatives from the wealthier states and Districts, and those with a higher

proportion of white collar workers, gave strong support to gun restrictions. House data confirms that Representatives from the richest Districts, primarily located close to the urban core, usually supported all restrictive measures. Representatives from the poorest states and Districts, generally rural in nature, offered the most opposition.

Correlations between per cent of the population Negro and gun control voting, using non-Southern Districts and states, demonstrates representatives from black and racially mixed areas supported firearms controls. Indeed, the House data supports the conclusion that Representatives from non-Southern "black" Districts, primarily in the urban ghettoes, strongly supported the restrictions. Additionally, there is little support in this study for the thesis that urban and suburban white districts located close to black riot torn urban cores opposed gun restrictions. The urban riots did not seem to adversely affect the general propensity of urban districts' Representatives, as well as suburban districts' Representatives, to favor firearms restrictions.

The strongest correlation coefficient between Senate firearms voting and any of the constituency characteristic variables is with a per capita measure of hunting licenses issued in each state. Senators from states with the greatest per capita number of hunting

licenses strongly opposed the restrictive gun legislation and vice-versa.

Inspection of the inter-correlations among all of the independent variables measuring different aspects of constituency characteristics supports the conclusion that population density is strongly related to those independent variables which are in turn strongly related to firearms control voting. That is, variables which covary positively with population density nearly always covary negatively with opposition to firearms restrictions; variables correlating strongly with firearms voting also correlate strongly with population density and vice-versa. None of the other independent variables used in this study approached such consistency in inter-correlations.

## Implications of Findings

A number of factors help to explain why attempts in the 90th Congress to regulate the use of guns in the United States met with strong resistance. One might assume that any supposed violation of an individual right would meet with significant resistance, but what made the issue of gun legislation most resistant to change in this country is the public importance placed on the gun and other similar weapons as a symbol of our frontier heritage. The resistance is based not only on the philosophical assumptions of a Locke or a Hobbes but on the practical

problems confronting a nation still recovering from its frontier days. Within this perspective regulation of the gun becomes something more than the violation of a second or third order individual right, for in the spirit of Locke and Hobbes it can be interpreted to mean that the right of the individual for self-protection is a right of primary and necessary guarantee.

The American culture endorses the frontier ethic: we still yearn for uncluttered spaces; we still participate in annual mass hunting pilgrimages into the bush. In 1959 George Gallup estimated that 25,000,000 American adults participated in some kind of annual hunting venture. For some, the gun is an objective realization of the now culturally institutionalized free-wheeling frontiersman. The gun is the object, and the use of the gun is the assertive action of the true individualist, of the individual against nature, of the individual defending his own place in life. Indeed, some men have been made heroes precisely because of their violent behavior.

As the gun is the ultimate equalizer, the gun is also the ultimate individualizer. In an increasingly non-individualized nation, the gun is not only associated with the frontier as its most important object, but the object itself may be seen to guarantee the myth of the frontier. The American Rifleman editorial page is aglow with warnings that taking away the gun means subverting the American way of life, and as a review of the

Congressional Record has recorded, it is an important concept among those who oppose restrictions that guns are a fundamental part of the "American Way." Indeed, numerous Gallup polls in the sixties demonstrated that although 70-80 per cent of the American public supports gun restrictions, very few Americans support any form of general confiscation of weaponry.

The oridnary monopoly of government to use force, and the residual of potential force always at the disposal of the individual to control deviant governments, or to control individuals where governments cannot, finds a rich supportive tradition in the United States. The Revolution, the Civil War and the American Vigilante Tradition are important examples of the latter while the constitutionally guaranteed status of police powers are an example of the former. The historically frequent use of force in the United States, especially during the frontier epoch, has left us with the residue of a political belief that is in part philosophical, extending from the arguments of Locke and Hobbes, and in part practical, extending from the experience of the frontier.

The debate in the Senate over what constituted appropriate restriction of firearms is in part the product of the gulf existing between the practice of bearing arms and the inexplicit legal boundaries set to the practice. Notwithstanding the force of legal history which generally denies an inviolable individual right to bear

arms, the flexible language of the Second Amendment coupled with the practice of arms bearing in the United States creates a basic tension between the social need for firearms restrictions and the fear that such restrictions are unwarranted infringement.

The concept of settled versus unsettled has its modern parallel in the conceptualization of rural versus urban. The frequent need for firearms in the unsettled frontier area may account for much of the early recognition in State Constitutions of a right to bear arms for individual defense, while the frequency of modern firearms use in rural areas may now account for much of the opposition to firearms restrictions. But the parallel between modern urban support for restrictions and the historical practice of settled areas to include only a collective interpretation for the right to bear arms is less direct. That is, the growing support for firearms restrictions is more a product of a complex industrial urban setting than it is of the non-industrialized, less compacted "settled" areas of by-gone days. Certainly the first chapter did not demonstrate that the settled states of the past advocated circumscribing the bearing of arms. At best, their view on the matter was characteristically neutral for, even though there was less need for bearing arms in these settled areas, there was also little reason to restrict their usage. But the problems of

crime and violence endemic of the modern urban sprawl have changed that neutrality to advocacy of restrictions.

It is not likely that this combination of legal history and historical practice has any direct parallel in the rest of the world. Thus, extending the features of this argument to a comparative analysis will probably not have much pay-off. The tensions between settled and unsettled, between rural and urban, and between constitutional language and social practice are not to be readily duplicated. Neither is it likely that the issue of firearms restrictions can be defined elsewhere in fashion similar to its definition in 1968. In this respect, the rise in urban crime may have been a precondition for restrictions in 1968, but the analysis in chapter two suggests the assassinations of the sixties acted as some sort of catalyst. In what respect, therefore, the 1968 gun law can be defined as an anti-crime measure or as an anti-assassination bill cannot be settled. Indeed, after the assassinations it may have merely become politically expedient to enact a more severe gun bill.

Comparative as well as longitudinal analysis may demonstrate the critical nature of how public events frame an issue such as gun legislation. But our abilities to forecast such events, let alone our abilities to predict their various impacts, is severely circumscribed. As a result, use of variables which measure and define how a public event frames an issue may be at best presently

restricted to the realm of explanation. Any predictive model of gun voting must include some role for public events, but our skills in forecasting such events are indeed miniscule.

Certainly the importance of public events cannot be dismissed from the analysis here, nor has it been dismissed by commentators on the firearms bills passed in the thirties; there, it has been held firearms restrictions were passed in reaction to the increased violence in organized crime. The existence of a highly visible and volatile public event or events, leading to a condemnation of the uses of firearms, may be as important a variable in forecasting the future of gun legislation as is the apparent link between urban density and firearms legislation.

But we have had crime and public assassinations in this country before and they did not lead to legislative restrictions. The analysis here suggests that tensions between urban densities and crime and the rural acceptance of the firearms "ethic" is at least as important as a forecasting agent. As suggested in Chapter IV, the relative nearness of a large urban area balanced against the habits of firearms use can explain much of the voting behavior on gun legislation. The urban-rural split is not simply the product of a single issue of rural life style or of urban crime, but of both. A careful weighing of both factors plays a crucial role in

determining the structure of opposition and support. How often one uses a firearm, on the one hand, balanced against how close one is to urban crime and violence, goes far to explain views on gun restrictions.

The question remains as to what role some general question of ideology can play in explaining the nature of the gun vote. Clearly, this study has sought to avoid the pitfalls of describing ideological components in terms of abstract philosophical enunciations. Chapters II, III, and IV, however, do offer some information on how a behaviorally defined set of beliefs can be associated with the gun voting divisions. The urban-rural voting splits, the content of the debates, and the over-all nature of the division on firearms restrictions suggests some concept of differences in "life style" may be related to the analysis. One component of the life style theme involves the degree to which firearms are a familiar part of life. The less definable aspects of this theme are the many social and cultural differences existing between the urban impacted areas of the East and the South. The conceptualization of these latter differences may offer some importance in noting the difference between Eastern support and Southern opposition, as the relative importance of hunting in the South per se was not found to measurably differ from its importance in some Northern and Eastern states. But Southern political views have typically been anti-Federal and conservative in the sense of restricting government

programs and "infringements." Their response to programs seeking Federal solutions to social problems, especially the problems of urban blight, urban crime, and the urban black poor have been negative and certainly much less positive than Western responses to these same problems. In respect of the life style theme, therefore, Southern opposition becomes explicable in two respects: (1) a tendency to view Federal restrictions as Federal infringements and, (2) an analytically less precise and supportable view that the Southern way of life minimizes the role of government while advancing some ideal of protecting the ultimate self-sufficiency of the individual.

Admittedly, the development of the theme of life style as a central component in conceptualizing the ideological determinants of gun voting is hazy and analytically incomplete. Ultimately, ideological determinants may prove to be nothing more than showing that support for gun restrictions is a common response by Senators from states sharing a common problem: urban violence. No such mono-causal determinant of gun voting is advanced here, although the apparent importance of viewing gun legislation as a response to such practical problems cannot be denied.

In sum, describing, explaining, and predicting the nature of the gun vote is an immensely complicated project. The analysis in this study suggests a variety of factors held important sway. First, although difficult

to pinpoint, differences in views as to the proper powers of government vis-a-vis the prerogatives of the individual, can be related to the outcome on firearms restrictions. Second, the assassinations of King and Kennedy appear to have acted as important catalysts in the gun debate and framed the issue in such a way to require an immediate response. Finally, the urban-rural split with its component factors of gun usage and urban violence are related to gun voting.

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# APPENDICES

# APPENDIX A

The following information on selected 90th Congress Senate and House roll calls is taken from data tapes supplied through the Inter-University Consortium for Political Research, Ann Arbor, Michigan. The roll call number for each bill corresponds to a numbering system that I devised. The variable number for each roll call corresponds to the identification number for the roll call as found on the Consortium data tapes. Three other pieces of information are supplied for each roll call: (1) The date on which the roll call was taken; (2) the number of yea and nay votes; and (3) the sponsoring Senator or Representative, when applicable.

## Selected Senate Roll Calls

Roll Call Number 1 — Y 54 N 23
Variable Number 0029 — February 21, 1967

To pass H.R. 4573, A bill to provide a permanent increase in the public debt limit.

Roll Call Number 2 — Y 24 N 68
Variable Number 0058 — March 15, 1967
Thurmond

To agree to executive reservation number 4 to executive D, adding the following language to the convention, (nothing in this convention shall be construed as in any way diminishing, abridging, or weakening the right of the United States to safeguard its own security.)

Roll Call Number 3 — Y 53 N 26
Variable Number 0072 — April 14, 1967
Ribicoff

To amend H.R. 6950, by allowing tax credits for those individuals paying college expenses.

Roll Call Number 4 — Y 44 N 39
Variable Number 0112 — June 8, 1967
Kennedy Mass.

To amend H.R. 2508, establishment of Congressional Districts, by reducing from 35 (to 10) the permissible variation between the largest and smallest Congressional Districts in a state.

Roll Call Number 5 — Y 57 N 25
Variable Number 0114 — June 8, 1967

To pass H.R. 2508, a bill providing for the establishment of Congressional Districts based on the 18th decennial and subsequent censuses, which Districts must be composed of continguous and compact territory. The difference in population between the largest and smallest Districts within a state may not exceed 10.

Roll Call Number 6 — Y 42 N 44
Variable Number 0124 — June 27, 1967
Byrd Va.

To amend H.R. 10867, by striking that portion of the bill which provides that the debt limit of $358 billion be increased temporarily to $365 billion every July 1, but must fall back to $358 by the next June 29.

Roll Call Number 7 — Y 31 N 51
Variable Number 0126 — June 27, 1967
Miller

To amend H.R. 10867, by reducing by $5,000,000,000 the debt limit set by the original bill.

Roll Call Number 8 — Y 43 N 45
Variable Number 0152 — August 2, 1967
Morse

To amend H.R. 10196, labor, H.E.W. appropriations, 1968, by increasing appropriations for Teachers Corps.

Roll Call Number 9 — Y 56 N 26
Variable Number 0160 — August 10, 1967
Byrd

To amend S 1155, by providing that the bank shall not participate in any credit transactions with any country

Das Urheberrecht liegt beim Verfasser. Weitere Nutzung nur mit Zustimmung.

giving aid to a country in armed conflict with United States.

Roll Call Number 10 — Y 34 N 34
Variable Number 0161 — August 11, 1967
Dirksen

To amend S 1155, the Bill, as pending, states the Congress policy that the Bank will not engage in credit transactions with communist countries unless President says it is in the national interest. Dirksen's Amendment provides that the Congress shall have the authority to pass a resolution in either House, disapproving the transaction and if they do, the transaction will not be permitted. Since it is a tie vote, the Amendment is rejected.

Roll Call Number 11 — Y 26 N 36
Variable Number 0162 — August 11, 1967
Cooper

To amend S. Res. 150, a resolution to investigate crime and lawlessness in United States, by adding that the commission is further authorized to study the extent to which economic and social causes have bearing on such disorders.

Roll Call Number 12 — Y 23 N 67
Variable Number 0180 — August 22, 1967
Kennedy Mass.

To amend H.R. 10738, by reducing appropriations to the National Board for the Promotion of Rifle Practice from $480,000 to $200,000, and eliminating the provision authorizing the Secretary of Defense to provide free ammunition to the Board.

Roll Call Number 13 — Y 49 N 29
Variable Number 0196 — September 13, 1967
Stennis

Conference Report on H.R. 10738, Department of Defense appropriations, 1968, to recede on disagreement to a House amendment specifying that none of the funds in H.R. 10738, may be used for construction of naval vessels in foreign shipyards.

Roll Call Number 14 — Y 32 N 55
Variable Number 0198 — September 19, 1967
Young Ohio

To amend H.R. 9960, independent offices appropriations, 1968, by reducing the civil defense appropriation by $20 million.

Roll Call Number 15 — Y 34 N 55
Variable Number 0205 — September 20, 1967
Lausche

To amend H.R. 9960. The rent supplement program, for which the budget requested $40 million, was eliminated by the House, the committee amendment restores the budget amount, Senator Lausche's amendment to the committee amendment appropriates $20 million, equal to fiscal 1967 appropriations.

Roll Call Number 16 — Y 59 N 31
Variable Number 0206 — September 20, 1967

To amend H.R. 9960, by restoring the budget request for $40 million for the Rent Subsidy Program.

Roll Call Number 17 — Y 42 N 47
Variable Number 0217 — October 4, 1967
Prouty

To amend S. 2388, Title II of S. 2388 is an (Emergency Employment Act), Prouty Amendment reduces authorization from $28 billion, to $875 million. A Part B is added to Title II, under which the Secretary of Labor is authorized to make grants to private industries who have a program of on-the-job training for (disadvantaged poor).

Roll Call Number 18 — Y 30 N 36
Variable Number 0228 — October 6, 1967
Proxmire

To amend H.R. 12474, NASA appropriations, for year 1968, by reducing appropriations for several NASA programs by about $100 million.

Roll Call Number 19 — Y 37 N 54
Variable Number 0236 — October 11, 1967
Williams Del.

To amend H.R. 10345, by reducing the appropriation for the Subsersive Activities Control Board to approximately $300,000.

Roll Call Number 20 — Y 43 N 39
Variable Number 0250 — November 7, 1967
Mundt

To amend S. 699, Intergovernmental Personnel Act of 1967, by extending to state governors the authority to determine whether or not their states participate in personnel training programs funded by the Federal Government and grants the governors the control of the distribution of funds.

Roll Call Number 21 — Y 50 N 30
Variable Number 0251 — November 7, 1967
Mundt

To amend S. 699, by reducing the percentage of Federal participation in personnel training programs from 75 (to 50).

Roll Call Number 22 — Y 39 N 36
Variable Number 0270 — November 20, 1967
Harris

To amend H.R. 12080, by providing for mandatory rather than permissive aid effective July 1, 1969, to children in need because of the unemployment of their fathers.

Roll Call Number 23 — Y 50 N 23
Variable Number 0284 — November 21, 1967
Bayh

To amend H.R. 12080, by liberalizing earnings test, thereby raising the monthly amount of recipient's earnings before a cutoff of benefits.

Roll Call Number 24 — Y 30 N 46
Variable Number 0320 — December 14, 1967
Williams Del.

To amend H.R. 14397, supplemental appropriations for fiscal 1968. By reducing by $192 million funds for poverty programs.

Roll Call Number 25 — Y 38 N 56
Variable Number 0334 — March 4, 1968
Byrd W. Va.

To amend H.R. 2516 by exempting from fair housing provisions any single dwelling private home owner in sale or rental of same.

Roll Call Number 26 — Y 48 N 42
Variable Number 0338 — March 5, 1968
Talmadge

To amend H.R. 2516 by extending protection of Title I relating to interference with federally protected activities of owners of shops or stores, so that they are protected from damage or injury during riot or civil disorder.

Roll Call Number 27 — Y 48 N 47
Variable Number 0341 — March 6, 1968
Hart

To table Proposition I of Chapter on Civil Disorders of Modified Long La. Amendment no. 517 to H.R. 2516, proposition 1 attaches penalties for inciting civil disorders, interfering with interstate commerce or with any Federally protected function.

Roll Call Number 28 — Y 72 N 23
Variable Number 0343 — March 6, 1968
Long La.

To amend H.R. 2516, by adopting Proposition 2 of Chapter on Civil Disorders of Modified Long La. Amendment no. 517, which attaches penalties for teaching use of weapons and for the transport and manufacture of certain weapons for civil disorder.

Roll Call Number 29 — Y 31 N 47
Variable Number 0348 — May 8, 1968
Ervin

To amend H.R. 2516 by requiring that threat of force must be sufficient to constitute an assault before it may be considered intimidation or interference.

Roll Call Number 30 — Y 24 N 64
Variable Number 0349 — March 8, 1968
Ervin

To amend H.R. 2516 by substituting the Ervin Amendment No. 506 for the Modified Dirksen Substitute Amendment No. 554. The Ervin Amendment would eliminate fair housing provisions and any racial factors in civil rights protected.

Roll Call Number 31 Y 35 N 48
Variable Number 0352 March 8, 1968
Ervin

To amend H.R. 2516 by providing that when an accused voluntarily confesses to a crime, his voluntary confession may be received in evidence.

Roll Call Number 32 Y 43 N 42
Variable Number 0357 March 11, 1968
Clark

To amend H.R. 15399, a Bill making urgent supplemental appropriations, by adding $25 million for Headstart Program.

Roll Call Number 33 Y 17 N 64
Variable Number 0362 March 14, 1968
Curtis

To amend H.R. 14743 by providing that effectiveness of this legislation shall be deferred until there is a balanced budget or until the President submits an estimated balanced budget.

Roll Call Number 34 Y 28 N 30
Variable Number 0405 April 18, 1968
Hart

To amend S. 3293, authorizing funds for military procurement for fiscal 1969, by providing to limit aggregate authorizations for research and development to $7,366 billion.

Roll Call Number 35 Y 28 N 31
Variable Number 0407 April 18, 1968
Cooper

To amend S. 3293, by barring use of authorized funds for deployment of anti-ballistic-missile system until the system is practicable and that its cost can be determined with reasonable accuracy.

Roll Call Number 36 — Y 30 N 23
Variable Number 0408 — April 19, 1968
Javits

To amend S. 3293 by requiring that so far as practicable the Secretary of Defense shall take into account as a favorable factor in awarding contracts the undertaking of a contractor to employ a substantial number of unemployed or low-income persons.

Roll Call Number 37 — Y 28 N 31
Variable Number 0410 — April 19, 1968
Clark

To amend S. 3293 by reducing authorized funds for naval vessels and barring use of funds for fast deployment logistic ships.

Roll Call Number 38 — Y 29 N 53
Variable Number 0425 — May 16, 1968
Kennedy Mass.

To amend S. 917. By adding Long Gun Coverage to the Firearms Control Section of Bill.

Roll Call Number 39 — Y 29 N 54
Variable Number 0426 — May 16, 1968
Dodd

To amend S. 917 by adding Long Gun Coverage to the Firearms Control Section of the Bill and further providing that the restriction on shipment of shotguns or rifles into a state shall not apply if such state has exempted itself by statute from such restriction.

Roll Call Number 40 — Y 28 N 52
Variable Number 0427 — May 16, 1968
Javits

To amend S. 917 by requiring a buyer through the mails of shotguns or rifles to submit a sworn affidavit that he is more than 18 years old, not prohibited by state law from receiving such a long gun in interstate or foreign commerce, and that no local law would be violated by receipt of such gun.

Roll Call Number 41 — Y 30 N 47
Variable Number 0428 — May 16, 1968
Brooke

To amend S. 917 by imposing an absolute prohibition against sale or delivery in interstate commerce of any destructive device or gangster type weapon to any persons other than those categories excepted in Federal Firearms Act.

Roll Call Number 42 — Y 37 N 45
Variable Number 0429 — May 16, 1968
Hruska

To amend S. 917 by offering a substitute Title IV pertaining to firearms control, which amendment provides that hand guns may be purchased through the mails on submission of an affidavit to the effect that the buyer is legally allowed to purchase the hand gun.

Roll Call Number 43 — Y 31 N 51
Variable Number 0430 — May 21, 1968
Tydings

To amend S. 917. By substituting for Title II language providing for an investigation of law enforcement impact of court decisions regarding criminal procedure, Title II pertains to admissibility of confessions and eyewitness testimony, reviewability of admission in evidence of confessions in state cases, and procedures for writs of habeus corpus.

Roll Call Number 44 — Y 29 N 55
Variable Number 0431 — May 21, 1968
Tydings

To agree to the first division of an amendment striking all of Title II from S. 917. The first division eliminates language that would revise the Miranda Decision of the Supreme Court so as to restore the rule allowing admission of confession of accused into evidence if voluntarily made.

Roll Call Number 45 — Y 26 N 58
Variable Number 0432 — May 21, 1968
Tydings

To agree to the Second Division of an Amendment striking all of Title II from S. 917. The Second Division eliminates

language that would revise the Mallory Decision of the Supreme Court so that delay in bringing a suspect before a committing magistrate would be one factor in determining issue of voluntariness, but would not exclude an otherwise competent confession.

Roll Call Number 46 — Y 52 N 32
Variable Number 0433 — May 21, 1968
Tydings

To agree to the 4th Division of an amendment to strike all of Title II from S. 917. The 4th Division eliminates language that would deny to Federal Courts jurisdiction to review or disturb in any way the ruling of any state trial court admitting in evidence confession of accused if such ruling has been affirmed by that state's highest Appellate Court.

Roll Call Number 47 — Y 21 N 63
Variable Number 0434 — May 21, 1968
Tydings

To agree to Part I of the Fifth Division of an Amendment striking all of Title II from S. 917. Part 2 of the 5th Division eliminates language that would overrule Wade and Stovall cases respecting admissibility in evidence of eyewitness testimony.

Roll Call Number 48 — Y 51 N 30
Variable Number 0435 — May 21, 1968
Tydings

To agree to Part 2 of the 5th Division of an Amendment striking all of Title II from S. 917. Part 2 of the 5th Division eliminates language denying Federal Appellate Court jurisdiction to review or disturb a ruling of any trial court admitting in evidence certain eyewitness testimony.

Roll Call Number 49 — Y 37 N 44
Variable Number 0440 — May 23, 1968
Hart

To amend S. 917. By allowing emergency setting up of wiretap prior to authorization only if there is an immediate danger to life.

Roll Call Number 50 Y 23 N 56
Variable Number 0443 May 23, 1968
Fong

To amend S. 917 by limiting operation of Title III regarding wiretapping and electronic surviellance to five years after enactment.

Roll Call Number 51 Y 44 N 32
Variable Number 0475 June 13, 1968
Holland

To table amendment to H.R. Res. 1268, making supplemental appropirations for fiscal 1968. The amendment, offered by Javits, would add $52.1 million for the purpose of providing summer jobs for under-privileged youth.

Roll Call Number 52 Y 34 N 52
Variable Number 0479 June 24, 1968
Cooper, Hart

To amend a Committee Amendment in the nature of a substitute for H.R. 16703, authorizations for military construction in fiscal 1969, by barring use of any authorized funds for an anti-ballistic missile system prior to fiscal year beginning July 1, 1969.

Roll Call Number 53 Y 34 N 38
Variable Number 0495 July 8, 1968
Murphy

To amend H.R. 12120, the proposed Juvenile Delinquency Prevention and Control Act, by providing for (BLOC grants) for comprehensive state planning and implementation of programs with proviso that 40% of the funds must pass through to local governmental units or agencies, and providing for action grants for prevention and rehabilitation, with proviso that 75% of the funds received must (pass through) to local governmental units.

Roll Call Number 54 Y 27 N 46
Variable Number 0547 August 1, 1968
Nelson

To amend H.R. 18785, fiscal 1969 appropriations for military construction by reducing by $227 million the funds for military construction, army.

Roll Call Number 55 — Y 42 N 21
Variable Number 0550 — September 6, 1968
Murphy

To amend H.R. 18037 by increasing by $10,000,000 the funds available for the Dropout Prevention Program.

Roll Call Number 56 — Y 25 N 35
Variable Number 0552 — September 6, 1968
Javits

To amend H.R. 18037, so as to provide that nothing in the Bill shall be construed to prohibit any institution of higher learning from refusing to extend financial assistance to any individual because of misconduct which, in its opinion, bears adversely on his fitness for such assistance.

Roll Call Number 57 — Y 28 N 26
Variable Number 0553 — September 6, 1968
Morse

To amend H.R. 18037, by providing that an institution of higher education, after affording notice and opportunity for hearing a student or employee convicted of certain stated crimes or who has refused to obey lawful regulations or order of said institution, may deny payments to such individual under Federal programs assisting higher education.

Roll Call Number 58 — Y 36 N 41
Variable Number 0560 — September 16, 1968

To amend S. 3633, by defining the term (ammunition) and exempting certain types of ammunition from coverage, such as shot gun shells, metallic ammunition suitable for use only in rifles or any 22 caliber rimfire ammunition.

Roll Call Number 59 — Y 42 N 45
Variable Number 0561 — September 17, 1968
Dodd

To amend S. 3633, by tightening qualifications for a licensed dealer in firearms.

Roll Call Number 60
Variable Number 0562

Y 45 N 39
September 17, 1968
Allott

To table the motion to reconsider the vote by which the Senate rejected Mr. Dodd's Amendment respecting qualifications for a licensed dealer in firearms.

Roll Call Number 61
Variable Number 0563

Y 31 N 55
September 18, 1968
Tydings

To amend S. 3633, by adding new titles to Bill providing for registration licensing of firearms.

Roll Call Number 62
Variable Number 0564

Y 35 N 48
September 18, 1968
Jackson

To amend S. 3633, by providing that after December 31, 1970, no license shall be renewed or granted to firearms dealers, importers, manufacturers, or collectors in a state which does not have an effective firearms control law requiring registration of firearms by residents of that state.

Roll Call Number 63
Variable Number 0565

Y 31 N 53
September 18, 1968
Brooke

To amend S. 3633, by adding a new title on, (firearms inventory), which would require the collection of certain information on all firearms.

Roll Call Number 64
Variable Number 0566

Y 35 N 49
September 18, 1968
Tydings

To amend S. 3633 by adding a new title providing for (licensing of concealable weapons).

Roll Call Number 65
Variable Number 0567

Y 6 N 78
September 18, 1968
Murphy

To amend S. 3633, by authorizing importation of certain types of firearms not particularly susceptible to criminal use, but for which there is an active market for sporting and other legitimate purposes.

Roll Call Number 66 Y 70 N 17
Variable Number 0468 September 18, 1968

To pass H.R. 17735, the House Bill providing for better control of interstate traffic in firearms, after substituting for its text the amended language of S. 3633.

## Selected House Roll Calls

Roll Call Number 19 Y 218 N 205
Variable Number 0405 July 24, 1968
MacGregor

To amend H.R. 17735, to provide for a better control of interstate traffic in firearms, by excluding rifle, shotgun, and .22 calibre rim fire ammunition from the provisions of the bill.

Roll Call Number 20 Y 412 N 11
Variable Number 0406 July 24, 1968
Poff

To amend H.R. 17735 by adopting the Poff substitute to the Casey amendment regarding penalties for use of a gun to commit a felony.

Roll Call Number 21 Y 225 N 198
Variable Number 0407 July 24, 1968
Latta

To amend H.R. 17735, so as to exempt, people, organizations, and institutions engaged in competition and military training from provisions of the bill under certain circumstances.

Roll Call Number 22 Y 305 N 118
Variable Number 0408 July 24, 1968

To pass H.R. 17735.

Roll Call Number 24 Y 167 N 175
Variable Number 0467 October 3, 1967
Flood

To recede from disagreement to Senate amendment no 63 to H.R. 18037, and concur therein with an amendment. The Senate amendment strikes out sec. 409, providing that no

part of the funds appropriated may be used for busing of students, or to force any children attending secondary school to attend a particular school against the choice of his parents. And inserts in lieu thereof a new section 409, which adds (elementary schools) to the language, and adds the phrase (in order to overcome racial imbalance). The House amendment would retain (elementary schools), but eliminate the racial imbalance phrase.

APPENDIX B

The following codes for states are similar to those used by the Inter-University Consortium for Political Research, Ann Arbor, Michigan. All data analyses and references to regions found in the body of the dissertation are according to these groupings.

New England

01. Connecticut
02. Maine
03. Massachusetts
04. New Hampshire
05. Rhode Island
06. Vermont

Middle Atlantic

11. Delaware
12. New Jersey
13. New York
14. Pennsylvania

East North Central

21. Illinois
22. Indiana
23. Michigan
24. Ohio
25. Wisconsin

West North Central

31. Iowa
32. Kansas
33. Minnesota
34. Missouri
35. Nebraska
36. North Dakota
37. South Dakota

External States

81. Alaska
82. Hawaii

Solid South

41. Alabama
42. Arkansas
43. Florida
44. Georgia
45. Louisiana
46. Mississippi
47. North Carolina
48. South Carolina
49. Texas
40. Virginia

Border States

51. Kentucky
52. Maryland
53. Oklahoma
54. Tennessee
56. West Virginia

Mountain States

61. Arizona
62. Colorado
63. Idaho
64. Montana
65. Nevada
66. New Mexico
67. Utah
68. Wyoming

Pacific States

71. California
72. Oregon
73. Washington

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