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REPORT }
No. 93-274 }

AMENDMENTS OF 1973 TO FEDERAL LAWS RELATING TO EXPLOSIVES

JUNE 28 (legislative day, JUNE 25), 1973.—Ordered to be printed

Mr. BAYH, from the Committee on the Judiciary, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 1083]

The Committee on the Judiciary, to which was referred the bill (S. 1083) to amend certain provisions of Federal law relating to explosives, having considered the bill, reports favorably on it, with an amendment in the nature of a substitute, and recommends that the bill, as amended, pass.

AMENDMENT

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as "Amendments of 1973 to Federal Law Relating to Explosives".

Sec. 101. Section 845(a) of title 18 of the United States Code (relating to exemptions from certain provisions of Federal law relating to explosives) is amended by striking out paragraph (5) and inserting in lieu thereof the following new paragraph:

"(5) Commercially manufactured black powder, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational or cultural purposes in antique firearms as defined in section 921(a) (16) of title 18 of the United States Code, or in antique devices as exempted from the term 'destructive device' in section 921(a) (4) of title 18 of the United States Code; and".

Sec. 102. Section 921(a) (4) of title 18 of the United States Code is amended by inserting after the word "sporting" in the last sentence the following: ", recreational or cultural".

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PURPOSE OF THE COMMITTEE BILL

The bill, S. 1083, with an amendment in the nature of a substitute, is designed to exempt black powder and certain igniters used in antique weapons from the regulatory provisions of Title XI of the Organized Crime Control Act of 1970 (P.L. 91-452, 84 Stat. 958). As originally introduced by Senator Bayh, the bill removed the licensing, permit, transportation, and storage restrictions from commercially manufactured black powder and certain igniters intended to be used solely for sporting purposes. The Committee amendment extends the black powder and igniter exemption to include not only sporting purposes but also cultural and recreational purposes in the definition of the permissible uses of these materials. Its purpose is to permit the unrestricted use of commercially manufactured black powder in antique firearms, as defined in Title IV, State Firearms Control Assistance, of the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90-351, 62 Stat. 743), and in antique devices, such as small, muzzle-loading cannons, as exempted from the term "destructive device" in the Gun Control Act of 1968 (P.L. 90-618, 82 Stat. 1214).

LEGISLATIVE HISTORY

The issue of black powder regulation is not new to this Committee or to the Senate. In the 91st Congress, Senators McClellan and Hruska introduced a bill, S. 3650, to strengthen the Federal laws concerning the illegal use, transportation, and possession of explosives. During consideration of this measure, the Committee recognized the overly-broad scope of its provisions with regard to ammunition and materials used for sporting purposes. The Committee Report on S. 3650 notes that:

* * * the broad scope of the bill as originally introduced would have resulted in needlessly penalizing law abiding sportsmen who, because of the expense involved in purchasing ammunition and as a hobby, hand load their own shells to be used for legitimate sporting purposes. In addition, over 10,000 of our citizens legitimately use black powder, smokeless powder, primers and percussion caps in connection with sporting activities involving muzzle loaded rifles and other guns. To meet this problem, Senator Schweiker (cosponsored by 27 other Senators) introduced amendment No. 728 to S. 3650 (See 116 Cong. Rec. S. 9559 (daily ed. June 23, 1970)), and others contacted the subcommittee. Consequently, language has been added to the bill that would exempt from its coverage these kinds of legitimate sporting activities. (Senate Report 91-1215, 91st Cong., 2d. Sess., pp. 8-9 (1970)).

While Senator Schweiker's amendment (No. 728) referred to in the Committee report provided an exemption for black powder in amounts not to exceed six pounds for use for lawful sporting purposes, the bill as reported by the Committee contained a complete exemption for black powder by excluding small arms ammunition and components intended for use therein from the definition of explosive.

The Senate accepted without debate the Committee amendments and adopted the bill by a vote of 68-0 on October 8, 1970. However, both Houses passed separate bills, with the Senate finally adopting the House version which did not give adequate recognition to the use of black powder for sporting purposes. Thus, despite the language of the explosives law as finally enacted, the legislative history of this important measure clearly indicates that the Senate thoroughly considered the issue of exempting black powder for sporting purposes and acted favorably upon such an exemption.

On March 1, 1973, Senator Bayh introduced S. 1083. The Subcommittee on Criminal Laws and Procedures, of which Senator McClellan is Chairman, reported this bill, with an amendment in the nature of a substitute (discussed above), to the full Committee on June 1, 1973. Because of certain questions raised in Subcommittee about the bill, full Committee hearings were conducted on June 12, 1973, chaired by Senator Bayh on behalf of Chairman Eastland. On June 20, 1973, the Committee reported the bill without further amendment.

NEED FOR LEGISLATION

The use of antique firearms and replicas of antique rifles and cannons is an integral part of the sporting, cultural and recreational life of this country. Muzzle-loading rifles are used at meets throughout the nation by organizations such as the National Muzzle Loading Rifle Association and the North-South Skirmish Association. These include both team and individual competitions using various types of Civil War weapons and other antique firearms. Antique or replica muzzle-loading cannons are also used nationwide by various civic, Boy Scouts, and veterans groups in a variety of ceremonies, including flag-raising, centennial, sesquicentennial, and Fourth of July celebrations. Moreover, they are used by symphony orchestras in the performance of classical music, such as Tchaikovsky's "1812 Overture." In addition, replicas are manufactured for historical groups and associations for use on historical restorative projects throughout the country.

Under present Federal law, the purchase, possession, storage and transportation of black powder in amounts larger than five pounds as well as certain igniters are subject to extensive regulation, resulting in serious hardships for the many thousands of Americans who use these materials for recreational, cultural, and sporting purposes. The Committee bill would remove these burdens without affecting in any way the strict criminal penalties for the misuse of explosives including black powder and igniters.

The Committee believes that the use of explosives to damage property, intimidate, injure, or kill people must be punished swiftly and severely, as provided by present law. However, the Committee recognizes the legitimate sporting purposes of commercially manufactured black powder and igniters, such as percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches and friction primers. These materials are used by thousands of law-abiding Americans in muzzle-loading rifles and other devices, such as small cannons, which are antiques or replicas of antiques. Because of the present restrictions on black powder, these citizens are seriously hampered in the

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enjoyment of recreational and competitive activities. The Committee believes that the Congress never intended to inhibit these sportsmen and other legitimate users from obtaining the black powder needed to participate in the antique shooting sports and other related recreational and cultural activities, and recommends that this measure be adopted.

HEARINGS ON THE COMMITTEE BILL

On June 12, 1973, the Committee conducted hearings on S. 1083, as reported by the Subcommittee on Criminal Laws and Procedures. Eight witnesses testified, representing sporting, cultural, and recreational organizations which use black powder as an integral part of their activities. The Administration was represented by three witnesses from the Alcohol, Tobacco and Firearms Bureau of the Treasury Department and by three witnesses from the Justice Department. All of the public witnesses agreed that the present restrictions on black powder and certain igniters imposed excessive burdens on those who participate in the antique shooting sports and in cultural and historical activities involving antique weapons. These witnesses urged the enactment of the Committee bill in order to ensure the future of these activities, which they believe are an essential part of the cultural and sporting heritage of this country. The Administration witnesses opposed removing the present restrictions on black powder, arguing that these restrictions are necessary to law enforcement efforts to curtail bombing incidents.

Public Witnesses

The National Muzzle Loading Rifle Association, an American heritage shooter-sportsman organization of over 17,500 members, was represented by Lt. Col. Vaughn K. Goodwin, the President, and the Honorable Gary Butler, a member of the Board of Directors. They testified about the difficulties created by the present restrictions on black powder, particularly for the participants in their National Matches. Because of the amount of black powder needed per shot, five pounds of black powder, which is exempted under present law, is inadequate for two days competition with muzzle loading shotguns or large bore rifles. Furthermore, the types of antique weapons their members use require the finest shooting grade of commercially manufactured black powder propellant. As a result of the regulations imposed on the distribution of black powder under the 1970 law, dealers are no longer willing to sell black powder, which formerly was carried as a courtesy item. Thus, the availability of high grade propellant has been drastically reduced while the price per pound has sky-rocketed—from \$1.50 per pound in 1970 to \$7.00 per pound today. Lt. Col. Goodwin and Mr. Butler urged the enactment of the Committee bill:

This exemption would remove the restriction on the black powder shooting sportsman and place the burden where it should be on the criminal bomber. This exemption would permit the honest citizen shooter to obtain his commercial black powder propellant without harassment, and provide an inducement to domestic production of sporting grades of black

powder. * * * Above all we urge the passage of this exemption to keep alive this truly American heritage sport of muzzle loading shooting.

The Indiana Sportsmen's Council was represented by Mr. J. Paul Barnett, the Northern Vice President, and Mr. Al Cors, Jr., the Southern Vice President. They testified that the present restrictions on black powder have critically endangered the survival of the antique shooting sports. As Mr. Cors told the Committee,

The sportsman finds himself in a position where he can buy five pounds of black powder under the law but he can't find an ounce because the law has driven the retailers out of the powder business. * * * The sportsman and the public have found that even their safety has been threatened by the law as many shooters have found out the hard way that homemade black powder and smokeless powder are extremely dangerous substitutes for sporting black powder.

These witnesses also pointed out that while black powder is involved in only a small percentage (about 3%) of reported bombings, the person intent on using black powder for criminal purposes can make his own black powder from easily obtainable, inexpensive, and completely exempt materials—sulfur, saltpeter, and charcoal. Moreover, readily available materials, such as gasoline and ammonium nitrate fertilizer, which are subject to a user intent exemption under the Federal explosives law, have a much higher incidence in criminal activities.

Mr. Barnett, a manufacturer of replicas of antique ordnance, described the difficulties he has experienced since the adoption of the black powder restrictions in obtaining the high quality black powder needed to fire antique cannons in symphonic performances, such as Tchaikovsky's "1812 Overture." Not only is an adequate supply virtually unobtainable, but the quality of the black powder is also uncertain. As a result, cultural activities involving the use of antique weapons, which are enjoyed by many thousands of Americans, have been severely impeded. Mr. Barnett concluded that "the law has crushed the lame but workable system of supply on which antique sportsmen have had to depend for more than a generation. There are many honorable people now out of supplies, or facing vastly multiplied prices in order to obtain bare amounts. There are no such bombers."

The additional views to this report contend that the resumed domestic commercial production of black powder will supply amounts more than adequate to meet the needs of sportsmen. Mr. Dale Lamb, Vice President and Treasurer of Gearhart-Owen Industries, informed the Committee that his company plans to produce 300,000 pounds of black powder for sporting purposes in the next twelve months, rather than the one million pounds cited in the additional views. Furthermore, the President of Gearhart-Owen Industries, Mr. Harrold D. Owen, in a letter of June 18, 1973, to Mr. J. P. Barnett, Vice President of the Indiana Sportsmen's Council, states that:

But the greatest access problems among sportsmen lie nearer field level, which is precisely where it is least possible for us to assist. That is where the sportsmen's traditional sys-

tem of courtesy dealers and mutual assistance has always played such an important part.

In the continued disruption of that system by the Organized Crime Control Act of 1970, widespread field-level shortages and inflated prices will remain substantially unremedied by resumed production.

Under the proposed exemption, the traditional system of sporting supply could be revived to the benefit of sportsmen.

Application of the proposed exemption only to commercially manufactured black powder is a particularly good feature, since it does close a present loophole allowing easy clandestine access through the simple expedient of home manufacture.

We support the efforts of your organization and others to get the five pound limit lifted for legitimate sporting use of commercially manufactured black powder.

The Committee concludes that although sporting grade black powder will soon be manufactured domestically, this fact will neither materially affect the limited availability of commercially manufactured black powder to the sportsman nor will it substantially reduce the inflated prices.

Mr. Richard Corrigan, President of the North-South Skirmish Association, testified that more than 100,000 Americans participate in the antique shooting sports, although many do not belong to any formal shooting sports organizations. He told the Committee that cultural, recreational, and sporting activities involving commercially manufactured black powder are seriously endangered by the existing restrictions on black powder. Addressing himself to the question of the criminal misuse of black powder, Mr. Corrigan testified that:

* * * Information obtained from the Bomb Data Center of the International Association of Chiefs of Police reveals that during the period of July 1, 1970 through December 31, 1971, there were 3,841 bomb devices employed by terrorists in the United States. Of this number only 149 used what is termed "blackpowder!" Those who collected the data did not differentiate between "home-made blackpowder," which any of us can make from readily available sources, and the scarce shooting grades, thus it can not be asserted that our propellant alone is the bomb filler. In fact, the 149 cases of black powder bomb filler out of nearly four thousand bomb devices clearly establishes the infrequent use of this substance called blackpowder—home-made or commercial—as a bomb filler and provides ample justification for amending Title XI * * *. It is futile and grossly unfair to restrict the "life-blood" of black powder shooting sports in the fact of evidence which demonstrates the infrequent use of any form of black powder (home-made or shooting grades) for bomb filler.

In addition to discussing the difficulties in obtaining high quality black powder described by earlier witnesses, Mr. Corrigan pointed out that the permit options available to black powder users are in fact complicated, confusing, and, for the most part, unworkable:

* * * Worse yet, they are a "Catch-22!" To purchase in quantities over five pounds one must have a permit. Before he can obtain a permit, however, he must have a magazine which has to be constructed to exacting specifications and personally inspected by an ATF agent. Should he comply with the above, he still may be greatly constrained. While there are several permits, only a dealer's permit allows him to sell or give propellant to anyone, even if they are members of his immediate family or shooting club. Those who assert that the present law is workable are obviously those who do not seek to purchase or to use blackpowder propellant.

Mr. Corrigan, on behalf of his organization and the many thousands of Americans who participate in the antique shooting sports, urged the Congress to enact the Committee bill.

The National Rifle Association was represented by Dr. C. R. Gutermuth, President, accompanied by Mr. Jack Basil, Manager of the NRA Legislative Information Service, and Col. E. H. Harrison, Senior Technical Adviser. Dr. Gutermuth testified that the NRA numbers among its more than a million members many thousands of muzzle-loading shooters who pursue their sport on the target range, in the hunting field, and in historic shooting events. The NRA strongly supports the proposed exemption of commercially manufactured black powder because "the future of countless numbers of organized and unorganized muzzle-loading shooters hangs in the balance because of the present severe restrictions of the federal explosives law of 1970." Dr. Gutermuth pointed out that many materials which present a far greater hazard than black powder are easily available, in abundant supply, and are not covered by the federal explosives law. He cited in particular gasoline, cleaning solvents, bleaching powders, and ammonium nitrate fertilizer, which was used to blow up the mathematics research building at the University of Wisconsin a few years ago. Dr. Gutermuth concluded that enforcement of existing criminal laws governing the misuse of black powder provides a far more appropriate method of curtailing bombing incidents than the present severe regulatory restrictions imposed on those who need commercially manufactured black powder for legitimate sporting, cultural, and recreational purposes.

Administration Witnesses

The Administration was represented by Mr. Rex Davis, Director of the Bureau of Alcohol, Tobacco, and Firearms, Department of Treasury, accompanied by Mr. Robert Dexter, Explosive Enforcement Analyst, and Mr. Marvin Dessler, Chief Counsel's Office; and by Mr. Malcolm Hawk, Acting Associate Deputy Attorney General, accompanied by Mr. John Kane, Criminal Division, and Mr. Jim Bentzer, Legislative Affairs Division, Department of Justice. These witnesses opposed enactment of the Committee bill on the grounds that the existing regulatory restrictions on commercially manufactured black powder are necessary to law enforcement efforts to curtail bombings and that the present five pound exemption for black powder adequately protects the interests of sportsmen.

While Mr. Davis testified to the ATF criminal enforcement accomplishments under Title XI of the Organized Crime Control Act of 1970, he was unable to cite figures regarding the specific number of cases involving commercially manufactured black powder forwarded to the Justice Department for violations of licensing, permit, storage, and record-keeping requirements of Title XI. In fact, Mr. Davis testified that "ATF does not keep statistics on the actual number of cases brought and convictions obtained under Title XI which involve black powder because such statistics have little or no impact in the law enforcement area." Mr. Hawk was also unable to supply statistics on the number of cases prosecuted by the Justice Department and convictions obtained for violations of the regulatory provisions of Title XI involving black powder. Consequently, the Committee believes that the Administration's position that these regulatory provisions are necessary to curtail black powder bombings cannot be substantiated. Indeed, all the evidence would indicate that the few black powder bombs reported are made from home-made black powder. In light of the fact that commercially manufactured black powder is so difficult to obtain, it is highly probable that persons intent on using black powder to make bombs resort to home manufacture of black powder. Regulation of home-made black powder will not be affected by the Committee bill.

As Senator Bayh, the acting Committee Chairman, explained to the Administration witnesses, the Committee bill does not propose the removal of all restrictions on black powder. It does not affect the criminal penalties for criminal misuse of black powder under Section 844, nor does it exempt black powder from the Department of Transportation Regulations issued pursuant to Section 834 of Title 18. Neither does S. 1083 affect in any way Title II of the National Firearms Act (Section 5861 of Title 26). State laws regarding the possession, purchase, storage, and use of black powder would also be unaffected by S. 1083.

Mr. Davis cited statistics maintained by the ATF Bureau relative to the types of explosives used in bombing incidents in order to show that black powder bombs present a substantial threat to the public safety. These figures show that in Fiscal Year 1972, 100 black powder bombs were reported, and in Fiscal 1973, 79 black powder bombs were reported. In both years, black powder bombs represented 18% of the total number of bombs reported. Mr. Hawk also referred to these statistics in his testimony. Nevertheless, these statistics do not distinguish between commercially manufactured and home-made black powder bombs. As noted above, the Committee believes that these bombings involve home-made black powder.

Moreover, these statistics vary considerably from those supplied by the National Bomb Data Center study, which was conducted from July 1970 through February 1972 by the International Association of Chiefs of Police. This study was based on newspaper reports of bombings and field reports from law enforcement personnel, including FBI and ATF agents. According to their reports, during the period July 1, 1971 through February 28, 1972, a total of 66 black powder bombs were reported out of a total of 1,634 bombs, or about 4.04%. These statistics, too, do not distinguish between home-made and commercially manufactured black powder.

The representatives of both the Treasury Department and the Justice Department testified that the regulatory laws governing black powder in amounts greater than five pounds are useful in keeping commercially manufactured black powder out of the hands of criminals. However, as noted above, neither Department has statistical evidence to substantiate this position, nor do they maintain data on the number of commercially manufactured black powder bombs which contain five pounds of black powder or less—amounts which are exempt from the existing law. They also indicated that permitting free access to commercially manufactured black powder would make more likely its destructive use.

However, a comparison of the number of bombings reported by the National Bomb Data Center for the eight month period preceding the effective date of the Title XI regulatory provisions governing black powder (February 12, 1971) with the eight month period following the effective date shows that the number of black powder bombs increased, as did the total number of bombs. Thus, during the period July 1, 1970 through February 28, 1971, the Center recorded 50 black powder bombs out of a total 1,261 bombs. During the following eight month period, March 1, 1971 through November 30, 1971, 71 black powder bombs were recorded out of a total 1,918 bombs. These figures do not bear out the argument of the Administration witnesses that the regulatory provisions serve to prevent the destructive use of commercially manufactured black powder.

CONCLUSION

The Committee recommends that the regulatory restrictions imposed by Title XI of the Organized Crime Control Act of 1970 on commercially manufactured black powder and certain igniters used in antique weapons for cultural, sporting, or recreational purposes, be removed, as proposed in the Committee bill.

COSTS

The Committee estimates that there would be no costs incurred by enactment of the Committee bill.

SECTION-BY-SECTION ANALYSIS

Section 101 amends section 845(a) of title 18 of the United States Code (relating to exemptions from certain provisions of Federal law relating to explosives) by inserting new language in paragraph (5) to clearly exempt commercially manufactured black powder, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational or cultural purposes in antique firearms or in certain antique devices.

Section 102 amends section 921(a)(4) of title 18 of the United States Code by the addition of language to exempt from the term "destructive device" antique devices such as small, muzzle-loading cannons used for recreational and cultural purposes.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of Rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic and existing law in which no change is proposed is shown in roman) :

TITLE 18—CRIMES AND CRIMINAL PROCEDURE

CHAPTER 40.—IMPORTATION, MANUFACTURE, DISTRIBUTION AND STORAGE OF EXPLOSIVE MATERIALS

* * * * *

§ 845. Exceptions; relief from disabilities

(a) Except in the case of subsections (d), (e), (f), (g), (h), and (i) of section 844 of this title, this chapter shall not apply to:

(1) any aspect of the transportation of explosive materials via railroad, water, highway, or air which are regulated by the United States Department of Transportation and agencies thereof;

(2) the use of explosive materials in medicines and medicinal agents in the forms prescribed by the official United States Pharmacopeia, or the National Formulary;

(3) the transportation, shipment, receipt, or importation of explosive materials for delivery to any agency of the United States or to any State or political subdivision thereof;

(4) small arms ammunition and components thereof;

[(5) black powder in quantities not to exceed five pounds; and]

(5) *commercially manufactured black powder, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational or cultural purposes in antique firearms as defined in section 921 (a) (16) of title 18 of the United States Code, or in antique devices as exempted from the term "destructive device" in section 921 (a) (4) of title 18 of the United States Code; and*

(6) the manufacture under the regulations of the military department of the United States of explosive materials for, or their distribution to or storage or possession by the military or naval services or other agencies of the United States; or to arsenals, navy yards, depots, or other establishments owned by, or operated by or on behalf of, the United States.

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CHAPTER 44.—FIREARMS

§ 921. Definitions

(a) As used in this chapter—

* * * * *

(4) The term "destructive device" means—

* * * * *

The term "destructive device" shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684 (2), 4685, or 4686 of title 10; or any other device which the Secretary of the Treasury finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, recreational or cultural purposes.

* * * * *

ADDITIONAL VIEWS OF SENATOR KENNEDY

In 1970 Congress enacted Title XI of the Organized Crime Control Act. The stated purpose of Congress in enacting Title XI was to reduce the hazard to persons and property arising from misuse and unsafe or insecure storage of explosive materials. Exempt from Title XI was the licensing, transportation and storage of up to 5 lbs. of black powder. This exemption was made in deference to the sporting users of black powder.

Earlier this month hearings were held on S. 1083, a bill to exempt black powder from the permit, licensing and storage provisions of Title XI of the Organized Crime Control Act. It is my firm belief that the exemptions for black powder now in effect, under Title XI are sufficient to adequately meet the needs of those persons who want to use black powder for legitimate sporting purposes.

I am aware of the efforts of groups like the National Muzzle Loading Rifle Association and the North-South Skirmish Association in holding reenactments of battles of the Revolutionary period and other historical and cultural programs. It is not my purpose in opposing S. 1083, to cause undue hardship or harassment to those who pursue their recreational or cultural endeavors in this manner. Indeed, that is not the intent of Title XI. The intent of that law is to restrict the availability of large quantities of a very unreliable explosive.

It has been argued by some, who support this amendment, that since black powder is so unreliable as an explosive it is not sought after as a blasting agent by terrorists and bombers. This is not the case.

The Alcohol, Tobacco and Firearms Bureau of the Department of the Treasury maintains statistics about bombing incidents and the type of explosive used. According to the Department between July 1, 1971 and June 30, 1972, there were a total of 542 explosive bombings in the United States. Black powder bombs were used in 18% or 100 of these cases. Subsequently, between July 1, 1972 and May 31, 1973, 409 explosive bombings, were reported and 79 of these or (18%) were caused by black powder bombs. These bombing incidents, both malicious and accidental, occurred in every type of community in our society, from explosions in high schools to the planned ambush of police officers answering a call for help, to the planned assassination of two men in a car and the accidental maiming of a 15 year old boy. All of this destruction and suffering was caused by the so-called harmless black powder. How many more incidents could be added to the list if this dangerous explosive were once again exempted from licensing, storage and transport regulation.

Another argument leveled at those who would like to see dangerous explosives strictly controlled, contends that 5 lbs. of black powder is not a sufficient amount to meet the needs of some sportsmen. According to ATF's statistics a person shooting a medium bore firearm can get

approximately 440 shots from 5 lbs. of black powder. Cannons require varying amounts depending on the model and size but there are approximately 20 shots per 5 lb. cannister.

I believe the 5 lb. limit adequately meets the needs of the average recreational sportsman. There are, however, some enthusiasts who shoot muzzle loading weapons in competition matches and other events that would require an excess of 5 lbs. of black powder. When users desire to acquire or transport black powder in quantities exceeding 5 lbs., a user-limited permit may be obtained if the user fills out a proper application and meets the necessary qualifications. These qualifications prohibit the sale of black powder to persons under 21, fugitives under indictment for a crime and those who are mentally deranged or drug addicted.

The fee for the users license is not restrictive. If the user wants the permit for a single transaction the fee is \$2.00. The user may also apply for a yearly permit which is \$20.00 for the first year and \$10.00 annually for each renewal.

Proponents of S. 1083 also complain about the regulations concerning the storage of black powder. As stated in Title XI, there are no storage regulations placed on black powder in quantities of less than 5 lbs. The regulations concerning the storage of black powder in excess of 5 lbs. are essential because of the instability of the explosive. This of course does not mean the less than 5 lbs. of black powder is not extremely dangerous. According to ATF: "black powder is a mass detonating explosive most of which can be expected to explode virtually instantaneously when a small portion is subjected to fire, to severe concussion or impact, to the impulse of an initiating agent, or to the effect of a considerable discharge of energy from without. Such an explosion will normally cause severe structural damage to adjacent objects or simultaneous detonation of other separated ammunition and explosive if stored sufficiently close to the initially exploding material. The untrustworthiness of black powder cannot be overemphasized."

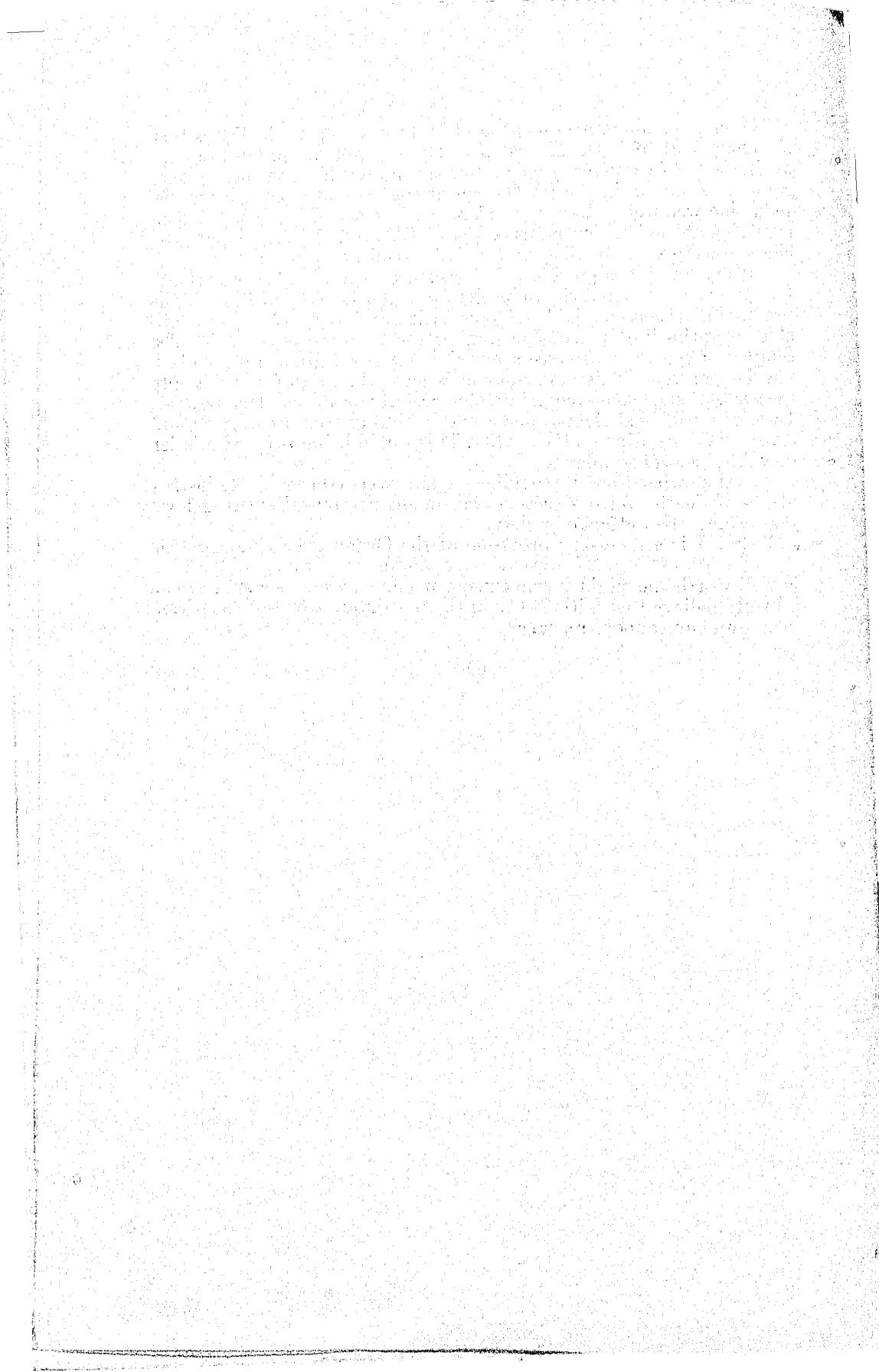
For the safety of the persons directly associated with the use of black powder as well as the safety of the public in general, it is essential that we maintain at least the present regulations for storing large amounts of this dangerous explosive. Storage of black powder in excess of 5 lbs. must meet federal standards. Title XI requires that black powder in excess of 5 lbs. may be stored in a building, a tunnel, a dug-out, a box, a trailer or semi-trailer or other mobile facility which is resistant to fire, weather and theft. These regulations are based on mere common sense and in no way can be construed as being overly restrictive. To exempt the storage of large amounts of this explosive from any regulations, as S. 1083 would have us do, would subject the public to unnecessary fear and anxiety for the safety of their lives and property.

The most common argument used by proponents of S. 1083 is that the enactment of Title XI has severely reduced the production and availability of commercial black powder. While there has been a substantial reduction in the production of commercial black powder the reduction was well under way before enactment of Title XI. After an explosion at the DuPont plant in Moosic P.A. in 1971, the company decided to restore the facility only to fulfill a military contract.

The DuPont black powder plant has since been sold to the Gearhart-Owens Co. I contacted the plant manager and he assured me that the production of commercial black powder is underway and will be available to authorized persons beginning sometime in July, 1973. The company expects to produce approximately one million lbs. of black powder per year. This huge amount is more than adequate to supply the needs of sportsmen requiring commercially produced black powder. I was also told that the powder would be selling from between \$1 and \$2.50 a lb. depending on the quality. This would bring price of powder down to pre-1971 standards.

At a time when there is a public mandate to control the use of instruments of death and destruction, we should not repeal existing laws that protect the welfare of society.

Title XI is a necessary provision of the Organized Crime Control Act of 1970. If Title XI prevents the maiming of one innocent child, it is well worth the slight inconvenience it may cause a few sportsmen. I firmly believe that Title XI is in the best interest of the American people and must not be repealed.



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