

## Legally Speaking



### Continuum

*By Karen MacNutt,  
Contributing Editor*

I attended my first legislative hearing on gun laws in the 1960s when I was in high school. Hundreds of gunowners showed up at the State House in Boston to defeat the measure.

Before 1906, Massachusetts had no gun licensing. In 1906, the old Yankee families were shocked when a political alliance of Blacks and Irishmen elected a Catholic Irishman named John Fitzgerald (John F. Kennedy's grandfather) mayor of Boston! There was a flurry of new laws. The police department was placed under the control of a police commissioner appointed by the governor. The Boston Finance Commission, appointed by the governor, was given oversight of the City's

expenditures. Literacy tests in English were required to vote. Anyone wanting to carry a loaded handgun had to get a permit from a chief of police or a judge which, in Boston's case, were both appointed by the governor. The only qualification for a license was that you had to be a "suitable" person. In a town known to display "No Irish Need Apply" signs, everyone knew who was "unsuitable." The law was quickly expanded to cover unloaded handguns. As the years went by, the law elaborated on who was disqualified. In the 1920s persons under the age of 15 were prohibited from carrying a handgun unless they worked for a bank. The age is now 21. After a series of labor riots and the infamous Sacco and Vanzetti trials, aliens were barred from having guns. Stiletos, daggers, and brass knuckles were also made illegal. With the advent of the "kung fu" movies, the list was expanded to cover "martial arts" weapons and stun guns. Even pepper spray requires a license in Massachusetts.

When alcohol was made illegal, organized crime moved into the illegal liquor business. Business disputes were settled with sawed off shotguns and "Tommy" guns. Laws making short barreled rifles or shotguns illegal, and severely restricting machine guns, were passed. The violence, however, continued until Prohibition was repealed.

The first major change to state gun laws in my lifetime was a

1968 law requiring people to be licensed to have any type of gun in their own home. I was against the new license but the leaders of the state's sportsmen's organizations supported the bill as a compromise. In exchange for their support, the anti-gun faction promised that they would not ask for anything more. It was a reasonable compromise.

People with felonies, drug convictions, and persons who had been committed to mental institutions (unless they had a letter from a doctor saying they should not be disqualified) could not have the license. Those disqualifications now include juvenile offenses; any offense, even minor hunting violations, involving a gun; and a substantial number of misdemeanors, including drunk driving.

The hot button issue in 1968 was military surplus, high power, bolt-action rifles. That was the type of gun used to kill President Kennedy. The claim was that those bolt-action, high powered rifles were good for nothing but killing people. There was no reason anyone other than the military should have one. All the anti-gun people wanted was to make those guns that were only good for assassinations illegal.

The federal government banned the importation of military surplus guns, mail order guns and the interstate sale of guns. It created a list of people, such as felons, who were prohibited from having guns. All gun dealers were licensed and

had to keep records of all guns that were sold. There was a huge fight about gun registration.

In Massachusetts the transfer of all guns had to be reported to the state. All transfers had to be to licensed persons. Not more than four private sales between licensed persons could still take place so long as they were reported to the state. Even though since 1968 all legal gun transfers can only be to pre-screened licensed persons and must be reported to the state, local anti-gun advocates now demand the “gun show loophole” be closed. There is no “loophole” in Massachusetts. What is really being called for is a ban on the private transfers of guns. By requiring all transfers to go through a dealer, it increases the cost of an inter-family transfer of guns. More significantly, the Attorney General claims the right to say what guns a dealer can sell under the state’s consumer protection laws. I can’t buy a used target pistol with a small grip that fits my hand in a private sale. The state attorney general has determined such guns, new or used, cannot be sold by dealers because a child with a small hand could fire them. In some areas it is hard to find a licensed gun dealer because local officials have forced them out of business.

In the 1970s the anti-gun forces focused on the “Saturday Night Special.” Organized crime moved into gambling and once again, there were turf battles. “All we want,” the anti-gun people would say, “is the little, easily concealable, small caliber, inexpensively made handguns that are the gun most favored by criminals.” The term “Saturday Night Special” conjured

up images of some dimwit getting his paycheck on Friday, going drinking on Saturday, buying an inexpensive gun and shooting someone in a drunken stupor. Banning the little guns, we were told, was sensible legislation. “Who would want to own such a gun?” the anti-gun faction asked. “They served no purpose but to kill people.” Guns should pass a barrel melt test, a drop test, and who knows what other type of test. The rub was how they defined “Saturday Night Specials.” On examination, their definition encompassed just about every handgun ever made.

In 1975 the anti-gun forces felt they had convinced the American Public that handguns were bad. “We should ban handguns,” they chirped, “if we could save just

one life.” They put the question on the ballot in Massachusetts. It was heavily debated. All the polls, they claimed, favored banning handguns. That is, all the polls except for the ones people voted at. The measure went down to defeat three to one.

In an effort to compromise, Massachusetts gunowners suggested that rather than restricting guns, that there should be a mandatory sentence for people who used guns in crime. We thought that was a reasonable law. When the bill was passed, it became a mandatory sentence for anyone possessing a gun without a Massachusetts license. Hundreds of people traveling though Massachusetts have been caught up by this law even though they had a permit from their home

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The advertisement features three Chiappa handguns: a large black semi-automatic handgun (top right), a silver revolver (bottom left), and a black semi-automatic handgun with a wooden grip (bottom right). The background is a textured, light-colored surface.

state and their only crime was not having a Massachusetts license.

Each time the anti-gun people put something before the legislature, they would be asked, "How many people with licenses were causing problems?" Each time they would admit that few or none of the crimes were being committed by people with licenses. Each time the Boston Police were asked about tracing crime guns using the state's registration system, it became clear that the only time the system was used was when someone's permit was suspended and the police confiscated their guns. Each time we offered a compromise to address some problems the anti-gun forces claimed existed, the bill came out of committee with none of the reforms we requested but with increasingly arbitrary and complex laws restricting licensed gunowners.

In 1980, the most exhaustive study ever done of gun laws was conducted by Profs. Wright and Rossi at the University of Massachusetts. The professors candidly described themselves as being against guns when they started. Their conclusion was that the evidence would not support a finding that any of the gun laws ever passed had any effect on crime. More recently a study by the Center for Disease Control came to similar conclusions.

When the state lotteries drove the profit out of illegal gambling, organized crime moved into drugs. Once again violence increased until the turf wars were settled with the "maturing" of the illegal drug markets. In 1989 the problem of the psychotic killer on prescription SSRI drugs, emerged

shortly after the introduction of Prozac, the first of the SSRI drugs.

Then the anti-gun people discovered "assault weapons." Those ugly black guns that worked exactly like the semi-automatic guns that had been around in wooden stocks for just short of 100 years. "No one needs an assault weapon," they crooned. "They are not good for hunting. They are only good for killing people." Just about every police department in the country now carries high capacity handguns which are, by the anti-gun definition, "assault weapons." The rules governing the use of deadly force by police officers are the same as those governing the use of deadly force by average citizens. Police carry high capacity guns because, as professionals, they concluded that high capacity handguns are the best guns for self-defense.

On the way into the state legislative hearings in 1998, I saw one of the state's leading anti-gun spokesmen. He had often stated that all they wanted to do was to ban those little handguns, those Saturday Night Specials.

"Hi, John," I said as we walked up the stairs. "I see you are here to testify against the assault weapons legislation, after all you always said you only wanted to ban the little guns." He gave me a strange smile, "You know better than that." I smiled back at him. I did know better than that.

So the waltz continues even though there is no evidence that Massachusetts's licensed gunowners cause any problem or that any of the laws passed or proposed would "save even one

life." Local anti-gun politicians talk about the gun show "loophole" even though there is none in Massachusetts. They want to re-define "high capacity" as having seven rounds and ban all guns over 10 rounds even though there is no showing that people who are licensed in Massachusetts have caused any problem and the last time "assault gun" legislation was proposed, we "compromised" by agreeing to have a special, discretionary license for high capacity guns. The bottom line is that those pushing for restrictions on guns believe all guns are bad. When they say gunowners will not compromise, what they mean is we will not agree to give up our guns.

Over the years I have debated many anti-gun proponents. They can be divided into a number of different groups. The most prevalent group are well meaning people who know nothing about guns except what they see on TV. We need to educate this group. Talk to your neighbors. Take a friend shooting.

Another group are the pacifists. They do not believe in self defense. I remember a debate in which the anti-gun faction was represented by a woman whose son had been murdered during a robbery. When asked what she would have done if she had been present and armed, she said nothing because she did not believe in taking a life. Mike Yacino, the former president of our state association, said, "Well Mrs. X, that's the difference between you and me. If I were there, your son would still be alive." That was the end of the debate. I disagree with the pacifists. If good people do nothing, evil will triumph. I

respect their opinions sincerely held. You will never change their minds.

The core of the anti-gun movement are elitists. Some will own guns. They do not hesitate to surround themselves with armed guards in gated communities. They just do not trust the general public with guns. They will never change. They hate guns and will do or say anything to get their own way. Truth is meaningless to them.

I have often heard those in the anti-gun leadership say that their agenda is to disarm all Americans except the military. You note, I did not exempt the police. Their feeling is that the American public would not accept a ban on guns so their goal is to make gun ownership so difficult that people will willingly give up guns. Their focus is on the honest citizen, not the criminal. Their belief is that if honest citizens do not have guns, the supply of guns to criminals will eventually dry up in 30 to 40 years.

So they talk about “gun crimes,” not crime in general. They are not really interested in crime. They are, in essence, vigilantes. They foster a lynch mob mentality against gun owners in general and the NRA in particular. They try to sue manufacturers and dealers to drive them out of business thus depriving honest people, including police departments, of a source of guns. They embrace extortion as a means to achieve their end. They will openly violate the law to prove their point. They sue honest people whose guns have been stolen by criminals because they want to make honest people afraid to own guns.

They want to force honest people to carry insurance in case a criminal breaks into their homes and steals their guns. This is just another way of shifting responsibility from the criminal onto the honest gun owner in an attempt to limit gun ownership to the wealthy. When did having insurance to cover a loss ever make anyone more careful? Some people will say, “If you have insurance on your car, why not on a gun?” My driver’s license is recognized in all states but my gun license is not. I can buy a car and keep it at home without insurance even if my driver’s license has been revoked, even if I have been convicted of multiple drunk driving charges, bank robbery, and motor vehicle homicide. Deaths due to cars far outstrip deaths with guns. Requiring insurance is just a way to make gun ownership too expensive for common people. Minorities and women do not have the economic strength of white males. Those are the people who will be most hurt by laws making guns too expensive for average people.

The anti-gun proponents demand people take training programs to own guns to increase the price of gun ownership, not to increase safety. If you asked the anti-gun faction if they would support the NRA’s Eddie Eagle gun safety programs in schools, they would say the program should be banned because it might cause children to become interested in the shooting sports.

The anti-gun forces want ballistic testing for all guns, all bullets numbered, guns that will only fire for one person and all sort of other gimmicks to increase

the cost of guns and ammunition. They want to ban lead bullets based on ecology and bullets made of other materials calling them “armor piercing.” None of these things increase public safety or are useful in solving crimes.

They want universal background checks to stop all private sales of guns. They are not suggesting that the ATF create a hot line which anyone could call, enter a social security number and get back a one word answer, “Yes” or “No.” With such a system there is no reason the interstate restriction on selling guns could not be lifted. I do not hear that being proposed. A big problem with requiring all transfers to go through dealers is that periodically the ATF embarks on programs to shut down as many small gun dealers as they can leaving some areas of the country without a reasonable access to a licensed dealer.

Gunowners who think they can compromise with the anti-gun side are naive. The anti-gun leadership does not think any gun is good for any purpose. The next time someone says that all they want is reasonable gun control, ask them if they support interstate reciprocity for all gun licenses. Ask them to list types of guns people should be able to own without restriction.

The largest mass murder last year was not committed with a gun in Connecticut. It was committed by a drug company, New England Compounding. That company killed at least 44 people by selling tainted medical supplies. Those deaths are not important to the anti-gun people, because they are not “gun deaths.”

*W&G*