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QUESTIONS AND ANSWERS ON THE
NATIONAL GUN CRIME PREVEN-
TION ACT—THE TYDINGS BILL

Mr. MANSFIELD. Mr. President, along with 17 other Senators, I have joined the distinguished Senator from Maryland [Mr. TYDINGS] in introducing S. 3634, the National Gun Crime Prevention Act, which provides for firearms registration and licensing. To answer the questions most frequently asked about the National Gun Crime Prevention Act, I have, with the assistance of Senator TYDINGS, prepared a brief document entitled "Questions and Answers on the National Gun Crime Prevention Act," which I ask unanimous consent to have printed at this point in the RECORD.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

QUESTIONS AND ANSWERS ON THE NATIONAL
GUN CRIME PREVENTION ACT
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1. What is the National Gun Crime Prevention Act?

The National Gun Crime Prevention Act is a bill introduced by 19 Senators to help detect and deter gun crime. It provides for registration of all firearms and licensing of all firearms owners and ammunition users. It encourages state action by providing for state pre-emption of the federal law. Where a state enacts its own registration and licensing law, the federal law would not apply. Where a state fails to act to protect its own citizens, the bill would provide a minimum floor of federal protection in that state.

Registration of all firearms will give the police the means to quickly trace guns used in crime to their owner.

Licensing of gun users will weed out persons who, by reason of criminal record, drug addiction, alcoholism, mental incompetence, or age should not be entrusted with a gun in the first place.

2. Why not just enforce existing state gun laws?

Most states' gun laws are totally inadequate to protect their citizens. Many states have practically no gun laws at all, eight states have no law against felons buying firearms. In 35 states lunatics can legally own guns. Only 3 states require a license to own or possess a gun.

Most state gun laws are either obsolete or meaningless, such as a Texas law forbidding carrying guns in a saddlebag, except when you are traveling, Vermont's law forbidding schoolchildren to have guns in the classroom, or Arkansas' law forbidding using a machine gun for offensive purposes. Clearly, existing state firearms laws are totally inadequate to protect the public.

3. Congress just passed a gun law. Why do we need another?

The law Congress enacted as part of the Omnibus Crime Bill in June was a watered-down compromise which, while worthwhile, for practical purposes only requires that pistol purchases be made in the purchaser's home state. The new law does make it illegal to transport or possess a gun if you are under indictment, a fugitive, a felon, an adjudged mental incompetent, an illegally entered alien, have renounced U.S. citizenship, or have been dishonorably discharged from the armed forces, but provides no means to actually prevent such persons from making firearms purchases.

The provisions of the Omnibus Crime Bill do not provide any way to trace a gun lost, stolen, or used in crime. They provide no way for gun dealers to determine whether the man they are selling to is who he says he is, does not intend to use the gun in crime, is not a felon, addict, or mental patient or otherwise disqualified from gun ownership. These dangerous people can still get guns by simply lying.

To make the law passed in June enforceable, we need firearms registration and licensing. Firearms user licensing would prevent criminals, addicts, lunatics, and juveniles from purchasing firearms, and registration would help find them if they used a gun in crime.

4. Are registration and licensing proposals merely steps toward confiscation of all firearms?

Certainly not. Firearms ownership and use by law-abiding citizens is a healthful recreation and does not contribute to the gun crime problem. But we urgently need adequate records of gun ownership to help trace guns used in crime to their criminal users. Registration of all firearms is the only way to gather these records. And we urgently need to deny access to firearms by criminals, addicts and mental incompetents. A licensing system, in which all law-abiding citizens automatically are entitled to licenses and all criminals, addicts and mental incompetents are automatically denied licenses, and which punishes purchase, possession or use of a firearm without a license, will severely inhibit criminal access to guns.

Those who oppose reasonable firearms control because they fear "confiscation" should be much more concerned that the rapidly rising gun crime rate may well lead to public demand for confiscation if reasonable measures to stem the gun crime rate are not taken now. The threat of confiscation arises not from reasonable action to stem the gun crime rate, but rather from no action at all.

5. Aren't registration and licensing bills actually just taxation measures?

No. The National Gun Crime Prevention Act contains no fee at all for either licensing or registration. It would be paid for out of the general revenues. Direct controls

against criminal access to guns and good records for tracing guns used in crime—not taxes—are the best way to control the gun crime rate.

6. Are registration and licensing constitutional?

Yes, without question. Here's what the Library of Congress says about the National Gun Crime Prevention Act and the Second Amendment's "right to bear arms": "From what we know of the history and construction of the Second Amendment, it would seem that the major current proposals for gun control are not subject to any serious Second Amendment challenges." (Library of Congress Study UC460B, 450/77 A-251: "The Second Amendment as a Limitation on Federal Firearms Legislation," July 8, 1968)

The U.S. Attorney General has stated: "A federal system requiring the registration and licensing of firearms is a necessary and proper means to two legitimate legislative goals, the regulation and protection of interstate commerce and the preservation of the peace of the United States . . . it is within the power of Congress to enact."

The bill also contains a special provision, Section 935(c), to conform to recent Supreme Court decisions (*Haynes v. U.S.*) dealing with the Bill of Rights provision on self-incrimination.

7. What will the National Gun Crime Prevention Act cost the gun owner?

The bill imposes no fees. The operation of the licensing and registration system proposed by the National Gun Crime Prevention Act would be paid for out of the general tax receipts of the country. As a law enforcement and public safety measure, the cost of the Act should be borne by all citizens. As originally introduced, the Act did provide a \$1 fee for licensing and registration, but this provision has been deleted.

8. How does registration work?

A gun owner simply sends a law enforcement agency the makes, models, and serial numbers of his guns and his own name and address. It can be done completely by mail. Then, when a lost or stolen gun is found, its true owner can be discovered and his gun returned to him. If a gun is found at the scene of a crime, its last known owner can be quickly traced. When a suspicious character is arrested with a gun in his possession, its ownership can be quickly determined. If the gun has been stolen or is unregistered, the suspect can be booked for possession of stolen goods or possession of an unregistered weapon.

If a state enacts its own registration law, guns would be registered with whatever state agency the law designated. If the state failed to act, guns would be registered with the federal government.

9. Must every firearm be registered?

Yes, otherwise many guns lost, stolen, or used in crime could not be traced.

10. Would private firearms sales be registered too?

Yes. All firearms transfers, by dealers and private persons, would be registered so that up-to-date records of actual gun ownership could be maintained.

11. Doesn't registration impose a burden on the law-abiding?

Not a significant one. Everything can be done by mail on a form like this:

FIREARMS REGISTRATION FORM,
Name: -----
Address: -----
Firearm: -----
Make: -----
Model: -----
Serial #: -----

The registration would be free and permanent. No fees. No renewals.

12. But won't criminals refuse to register their guns?

Some criminals may refuse to register their guns and risk being jailed for having an unregistered gun. But any suspected criminal found with an unregistered weapon can be jailed on that charge alone, *even if no other crime can be proved*. So it will become very risky for a criminal to have an unregistered weapon.

13. *Must an owner of several guns register each of them?*

He must supply the make, model, and serial number of each, but could do so for all his guns on a single form.

14. *What about weapons which have no serial number?*

The bill provides that firearms dealers can imprint serial numbers on such weapons for identification purposes.

15. *What about antiques?*

No firearm manufactured prior to 1898 is covered by the bill.

16. *How does licensing work?*

Licensing is simply a way of denying fugitives, criminals, addicts, and mental defectives access to firearms and ammunition. Every purchaser, possessor, or user of firearms or ammunition would have to have a license, except for juveniles with their parents' consent and hunters or sportsmen who have borrowed a weapon for temporary use.

To get a license, you would simply submit a statement affirming that you are over 18, have never been convicted of a felony or committed to an institution by a court on the grounds of alcoholism, narcotics addiction, or mental incompetence, that you are not under indictment or a fugitive, and are not otherwise prohibited by law from obtaining a weapon. In addition, you would supply a physical description like that required for a driver's license and proof of identity (in the form of a draft card, driver's license, social security card, etc.).

If a state enacted a licensing law, the statement and identification would be supplied to whatever agency the state prescribed, but if the state does not act, then to any federal firearms dealer. The entire transaction could be conducted by mail.

Issuance of licenses would be automatic to all law-abiding citizens, without any discretion on the part of the issuing officer. Denial of a license would be automatic in the case of felons, fugitives, adjudged alcoholics, addicts and mental incompetents, and those under 18.

17. *How about my son under 18 years old? Could he still hunt and shoot?*

Yes, definitely. Although he could not own a gun in his own name, the bill expressly provides that he will be able to hunt and shoot with his parents' consent.

18. *What's the difference between registration and licensing? Do we need both?*

Registration is a means of tracing guns used in crime. Licensing is a means of reducing the gun crime rate itself by denying access to guns by known criminals, addicts, and mental defectives. Registration is a means to solve gun crime once it has been committed. Licensing is a means to prevent gun crime from being committed in the first place.

19. *Must every gun be separately licensed?*

No. Firearms purchasers, owners and users are licensed, not the guns themselves. The purpose is to deny licenses to criminals, addicts and mental defectives.

20. *Would there be any discretion to deny a license?*

Not where the federal law applies. If the applicant is not under indictment, or a fugitive, a felon, an adjudged addict, alcoholic or mental incompetent, or under 18, the license must be issued. The state could establish a different system, if they wish, just as they can today.

21. *But won't criminals get guns anyway?*

If a licensing law were in effect a criminal, addict, or mental defective could not legally purchase, own or use a gun, because he would

not be entitled to a license. Thus, lawful channels of purchase would be cut off to him. Today they are not.

Today, in most states, criminals, addicts and idiots have access to guns on the same basis as the law-abiding. Even if, after enactment of the National Gun Crime Prevention Act hard-core criminals may be able to get some guns, the small-time but frequently deadly crook who holds up liquor stores, bus drivers and filling stations or housebreaks will find it much harder and much riskier to possess a gun.

No one claims gun laws are airtight or foolproof. The question is whether we should do what we can to detect and prevent gun crime or continue to do nothing, as we do today.

22. *Why not just punish gun crimes more severely?*

Heavier penalties for gun crimes already exist, but haven't answered the gun crime problem. Armed robbery is a more serious offense than simple robbery; aggravated assault is more heavily punished than simple assault. Murder is the most heavily punished crime of all. Yet the commission rates of all these crimes are climbing intolerably. Armed robbery increased from 42,600 crimes a year in 1964 to 71,000 in 1967; aggravated assault by gun from 27,700 cases in 1964 to 55,000 in 1967; murder by gun from 5,000 in 1964 to 7,700 in 1967.

Gun crimes should be more heavily punished. But clearly, heavier penalties do not answer the gun crime epidemic. They do not help solve gun crimes, as registration would. They do not prevent criminal access to guns, as licensing would. They do not bring gun crime victims back to life, repair their wounds, or return their property. Only disarming the criminal can do that.

23. *What about the argument that "guns don't commit crimes, people do"?*

Of course, guns don't commit crimes, but people using guns certainly do. People using guns last year alone robbed 71,000 Americans, assaulted 55,000 Americans and murdered 7,700 Americans. People using guns murdered John Kennedy, Martin Luther King, and Robert Kennedy, along with more than 25,000 other Americans between 1963 and 1967.

24. *What about the argument that "No dictatorship has ever been imposed on a nation of free men who have not just been required to register their privately owned firearms"?*

That argument does not hold water. It is unsupported by fact and refuted by history. For example, regarding the German occupations of Europe, the Library of Congress has concluded:

"We can make no positive correlation between gun laws and dictatorships, as the following examples will show.

"First, four countries were examined which are democracies now, but in recent history came under Nazi dictatorships (Germany, Italy, France, and Austria). One may reasonably assume that if gun registration laws constituted a primary factor in the rise of dictatorships, these countries would have since revised their laws to prevent future dictatorships. This has not been the case. The four countries today have substantially the same gun laws as those in force prior to the advent of dictatorship. In fact, in Italy, where gun laws were relaxed by Mussolini, they have recently been restrengthened approximately to their pre-Mussolini level.

Secondly, two democracies were examined which have not suffered dictatorships in their recent history (England and Switzerland). Switzerland has had gun registration laws since 1874, England since 1831.

"It would be inaccurate of course to suggest that a dictatorship would be unconcerned about the possession of firearms by its populace. Nevertheless these few examples would seem to indicate fairly conclu-

sively that there is no significant relationship between gun laws and the rise of dictatorships at least in these countries."