

University of Montana

ScholarWorks at University of Montana

Mike Mansfield Speeches, Statements and Interviews

Mike Mansfield Papers

11-19-1969

Congressional Record S. 14641 - Strengthening the Penalty Provisions of the Gun Control Act of 1968

Mike Mansfield 1903-2001

Follow this and additional works at: https://scholarworks.umt.edu/mansfield_speeches

Let us know how access to this document benefits you.

Recommended Citation

Mansfield, Mike 1903-2001, "Congressional Record S. 14641 - Strengthening the Penalty Provisions of the Gun Control Act of 1968" (1969). *Mike Mansfield Speeches, Statements and Interviews*. 805.
https://scholarworks.umt.edu/mansfield_speeches/805

This Speech is brought to you for free and open access by the Mike Mansfield Papers at ScholarWorks at University of Montana. It has been accepted for inclusion in Mike Mansfield Speeches, Statements and Interviews by an authorized administrator of ScholarWorks at University of Montana. For more information, please contact scholarworks@mso.umt.edu.

STRENGTHENING THE PENALTY
PROVISIONS OF THE GUN CON-
TROL ACT OF 1968

Mr. MANSFIELD. Mr. President, as in legislative session, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 532, S. 849.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. Calendar No. 532, S. 849, a bill to strengthen the penalty provisions of the Gun Control Act of 1968.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments on page 2, line 6, after the word "than", where it appears the first time, insert "two or more than"; in line 8, after the word "sentence", insert "in the case of a second or subsequent conviction"; in line 10, after the word "probationary", strike out the "sentence" and insert "sentence,"; so as to make the bill read:

S. 849

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (c) of section 924 of title 18, United States Code, is amended to read as follows:

"(a) Whoever—

"(1) uses a firearm to commit any felony which may be prosecuted in a court of the United States, or

"(2) carries a firearm unlawfully during the commission of any felony which may be prosecuted in a court of the United States, shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment for not less than one year nor more than ten

years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to a term of imprisonment for not less than two nor more than twenty-five years and, notwithstanding any other provision of law, the court shall not suspend the sentence in the case of a second or subsequent conviction of such person or give him a probationary sentence, nor shall the term of imprisonment imposed under this subsection run concurrently with any term of imprisonment imposed for the commission of such felony."

Mr. MANSFIELD. Mr. President, as reported by the Judiciary Committee, the Lesnik bill provides mandatory sentences for using or carrying a gun in the commission of a crime.

The criminal gun user—first and subsequent offenders—would be penalized separately for choosing to use or carry a gun in committing a crime. The criminal gun user—first and subsequent offenders—would be penalized solely for choosing to use or carry a gun. The sentence imposed for the mere act of using or carrying a gun in the commission of a crime would be in addition to the sentence for the crime itself—be it bank robbery, interstate car theft, or whatever.

With regard to the first offender—that is, the man who for the first time commits a crime using or carrying a gun—the bill provides that the court be required to sentence the man for from 1 to 10 years solely for using or carrying a gun. However, in this first-offender instance, the court retains the power to suspend that first offender or to give him probation. In this fashion the court is given some leeway in the case of a first offender.

For a second or subsequent offender the mandatory sentence of from 2 to 25 years is provided in its fullest sense. The judge is given no leeway to suspend or set probation.

In short, this bill provides for the first time a separate and additional penalty for the mere act of choosing to use or carry a gun in committing a crime under Federal law. If that choice is made more than once, the offender can in no way avoid a prison sentence regardless of the circumstances.

A little more than a year ago, Thadeus Lesnik, a young marine from Fishtail, Mont., was shot down in a restaurant here in the District. That tragic act of violence, like so many others, caused me to reassess my thinking on gun legislation. The availability of guns, their easy access by those who are incompetent, by the criminal, the addict, the alcoholic, and the lawless was brought home to me in a very tragic way. In response, I introduced this year a bill, S. 849—now before the Senate—that would provide mandatory prison sentences against gun criminals in addition to the sentence imposed for the crime itself.

I certainly am pleased that this measure has now been reported out of the Committee on the Judiciary. It is the Lesnik bill, and what it says to the gun criminal in terms that are clear and simple is that he will be punished for his wanton act of violence—for the mere act of carrying a gun or using a gun in the commission of a crime. The terms of

the bill as it was reported by the committee are explained in the report of the committee, and I ask unanimous consent that an excerpt from that report be inserted in the Record at this point.

There being no objection, the excerpt from the report (No. 91-539) was ordered to be printed in the Record, as follows:

PURPOSE OF THE AMENDMENTS

The bill, as introduced, provided that upon conviction for a Federal crime punishable as a felony, the person convicted who either used a gun or carried one with him in the commission of the crime, would be subject to a term of imprisonment of not less than 1 year nor more than 10 years and that such term would be imposed as a consecutive sentence to that imposed for the commission of the specific crime.

Upon conviction for a second or subsequent offense, the individual would be subject to a mandatory 25-year term of imprisonment, to run consecutively with that imposed for the specific crime. In addition, such an individual could not receive a suspension of sentence nor probation.

The committee amendments pertain to the person convicted on a second or subsequent offense and provide, in lieu of a mandatory 25-year term of imprisonment, a term of imprisonment of not less than 2 nor more than 25 years to run consecutively with the term imposed for the commission of the specific crime.

In addition, suspension of sentence and probation would not be allowed.

The committee believes that the stringent nature of the penalty provisions of the bill have not been lost in the amendments provided thereto, and that the intent of the bill as indicated by its sponsor, Senator Mansfield, is retained.

PURPOSE

The principle purpose of this bill is best stated by Senator Mansfield in his testimony before the Subcommittee to Investigate Juvenile Delinquency.

He stated:

"Gun crime is a national disgrace. And with this bill I offer another approach to curtailing the gun crime rate—an approach that says to the criminal in terms that are clear and simple that his resort to a gun will be met automatically with punishment that fits such an act of violence. In contrast to the present gun law, no burden is imposed on the law-abiding gun owner. No sacrifice is asked. The burden falls squarely where it belongs—on the criminal and the lawless; on those who roam the streets, gun in hand, ready and willing to perpetrate their acts of violence.

"I am no expert in crime control. I am not even a lawyer. But I know that there is something wrong when the Federal Bureau of Investigation tells us that while our gun crime rate continues to spiral upward, our prison population shrinks proportionately. I hope this trend is reversed. I would think an assured prison sentence for criminals who choose to resort to firearms would help establish such a reversal or at least stem the tide. That is the purpose of my bill."

STATEMENT

In 1968, according to Federal Bureau of Investigation figures, there were 8,900 gun murders committed in the United States. In addition, 65,000 Americans were victims of gun assaults and 73,000 citizens were robbed by gunmen that year. These figures reflect substantial increases over 1967, and since 1964, gun murders have jumped 71 percent; gun assaults have increased 117 percent and gun robberies have risen 113 percent.

While all of the above offenses are not Federal crimes, certain of them are including those bank robberies which violate Federal statutes, assaults upon killings of Federal

officers, and robberies of U.S. post offices. It is upon this class of criminal, the Federal felon, that this legislation would have an impact.

In addition to these Federal crimes of violence upon which the Mansfield bill would have an impact, other serious Federal felonies, such as interstate transportation of automobiles, interstate gambling and racketeering, narcotics violations, threats against the President and his successors, extortion, and kidnaping come within the purview of the provisions of the bill.

Thus, this bill would provide the Federal courts with measures to deal stringently with serious Federal violators.

SCOPE OF COVERAGE

In amending the penalty provisions of the Gun Control Act of 1968, this bill would apply to those persons convicted of Federal felonies while armed with or carrying guns during the commission of the crime for which convicted.

In addition to the penalty that the court would impose for the specific offense, S. 849 provides additional penalties of from 1 to 10 years on an initial conviction and, as amended by the committee, of not less than 2 nor more than 25 years on a second or subsequent conviction.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the committee amendments be adopted en bloc.

The PRESIDING OFFICER. Without objection, the committee amendments are agreed to en bloc.

Mr. MANSFIELD. Mr. President, let me just say in conclusion that I certainly appreciate the efforts of the Committee on the Judiciary, because the members of that committee cooperated splendidly in seeing that this measure was considered expeditiously and brought to the attention of the Senate as a whole.

It is my hope that henceforth, after this law is written firmly into the lawbooks, the gun criminal will consider carefully his resort to a gun in the first instance. He will know that that mere decision will be sufficient to penalize him with a jail sentence. I think this bill will act as a deterrent to the gun criminal. I think the gun criminal will think twice before he decides to employ such a weapon of violence.

If one life is saved, or one injury avoided, I think this measure will represent as well a fine memorial to the memory of Thadeus Lesnik, of Fishtail, Mont.

Mr. President, I urge the passage of the Lesnik bill.

Mr. SAXBE. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. SAXBE. Mr. President, I wish to associate myself with the remarks of the distinguished Senator from Montana, because it is a very healthy thing to put this burden on the law violator rather than the sportsman or gun collector who peaceably is a gun owner.

The action in the House yesterday, which continued the provision to relieve the shotgun owner from the onerous burden of registering components and shotgun shells, is another step, I believe, in recognizing that the majority of gun owners in this country are law-abiding people, people who are sportsmen, who are hunters, and who are gun collectors, and have a legal right to own guns.

The action which the Senator from Montana has referred to for the first

time shows that we are serious about increasing penalties on a person who violates the law with a gun. I certainly am in accord with that.

Mr. ALLEN. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I yield.

Mr. ALLEN. I would like to ask as a matter of information if, in defining the new offense, the offense of using a weapon in the commission of a crime, it would require, as a condition precedent to conviction for using the weapon, conviction of the original offense. Would that be a condition precedent?

Mr. MANSFIELD. The answer is yes and no. I would imagine that with this measure on the books, the indictment would contain a separate count for a violation of this provision of the criminal law. But the Senator from Alabama is correct in what he suggests; that the crime itself must be established in the first instance, before the criminal may be convicted—in addition—for using or carrying a gun.

Mr. ALLEN. In other words, if he were acquitted of the original offense—of committing a crime—then, under the provisions of this bill, he could not be convicted for using a gun in the commission of a crime.

Mr. MANSFIELD. That is correct. He could not be convicted just for carrying a weapon itself. The offense would be the carrying or using of the weapon in the commission of a crime. The two would have to be considered together.

Mr. ALLEN. But he could not be acquitted of the original offense, and then be convicted under the provisions of this bill. Is that correct?

Mr. MANSFIELD. Not unless the commission of a crime were established. Then the criminal could be sentenced under this measure separately if it were found that he carried or used a gun in committing that crime.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 849) was ordered to be engrossed for a third reading, was read the third time, and passed.