

However, if this section were to be applied in times when passions are running high, when emotions are at fever pitch and where there is some civil disorder, conceivably it could be applied, possibly as ex post facto law, by excited prosecutors acting under the pressures of public opinion to punish certain persons for possession, for use, for ownership of firearms, or for teaching the use of firearms. Conceivably, it could be utilized for acting against persons who might possess substances which might be explosive in nature or flammable in nature, but the ownership and intent of the individual concerned might be innocent.

The interesting thing about this section, Mr. Chairman, is that it does not deal with the act of the criminal, misuse of the firearms, unrelated or other circumstances, or to the teaching of the application or the making of firearms. It is triggered by something that takes place later. That is the use of the firearm in some kind of civil disorder, or criminal misuse of the firearm. This criminal misuse then relates back to the original act of demonstrating the use of a firearm demonstrating or teaching of the application of the use of a firearm.

The result of this could be that a person who innocently showed a neighbor how to use a firearm might be conceivably, at a later time, charged with a violation of this section by reason of the neighbor, at a later time, using that firearm in defense of his home. One might conceivably be charged with a crime, or rather violation of section 231, because unbeknown to him, that neighbor might have used that firearm in some portion, or in some section, in some way related to a riot.

This, conceivably, could have an extremely dangerous effect on him and on the Negro citizen in terms of the ability to buy a firearm. It is highly doubtful that a hardware store will sell a shotgun to an innocent Negro citizen in a time of approaching, what we have been led to call in recent years, "long hot summers," because, conceivably the owner of that store might be chargeable with—

Knowing or having reason to know or intending that the same will be unlawfully employed for use in, or in furtherance of, a civil disorder which may in any way or degree obstruct, delay, or adversely affect commerce or the movement of any article . . .

This is very broad language. It is language that can be stretched to cover an abundance of circumstances not altogether known to the parties of the circumstance at the time a firearm is sold or demonstrated.

Now, there was some language interpreting this which was entered into during the Senate debate. There was an attempt to expand this very broadly to include firearm sales or other matters by certain individuals of the Senate, who were long known to the opposition of the ownership of firearms for lawful purposes, sporting and defense purposes.

I believe that the fact that the criminality of the act is triggered by circumstances unrelated to the happening, that the going forward should raise questions in the minds of a good legal draftsman, because the crime mortality of the act is not necessarily the sale, but it is the later use of the firearm or the explosive which may be used.

Now, I have no defense for explosives. I think explosives are something which really should be most rigorously controlled. But a firearm used by sporting persons, by a large number of citizens, and they