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BOOK REVIEWS

THE SATURDAY NIGHT SPECIAL—AND OTHER GUNS WITH WHICH AMERICANS WON THE WEST, PROTECTED BOOTLEG FRANCHISES, SLEW WILDLIFE, ROBBED COUNTLESS BANKS, SHOT HUSBANDS PURPOSELY AND BY MISTAKE AND KILLED PRESIDENTS—TOGETHER WITH THE DEBATE OVER CONTINUING SAME. By Robert Sherrill. Penguin Books: 1975. Pp. xiii, 336. Softbound. \$2.75.

Reviewed by ROBERT F. DRINAN, S.J.*

Debate over gun control is reaching a feverish pitch once again, as the 94th Congress seriously considers firearms legislation for the first time since 1968.¹ The result of the last campaign was the Gun Control Act of 1968, which came on the heels of the assassinations of Robert Kennedy and Martin Luther King. But even those momentous events failed to produce a tough bill. The 1968 Act has been dismissed by some as "one of the grand jokes of all time."²

Robert Sherrill's analysis of the explosive gun control issue indicates why tough gun control laws will be just as difficult to enact in 1975 as they were in 1968. Sherrill describes how the interaction of the National Rifle Association, gun manufacturers and the Congress has retarded any meaningful progress in regulating the sales of firearms. Yet the author has not produced just another anti-gun book; he is as brutally frank in outlining the efficacy of gun control laws ("they won't work")³ as he is in describing the victims of the gunfire (the "refuse" of our "trashy" society, mostly criminals or people who "wouldn't have come to much" anyway).⁴

As the most influential of the gun lobby groups, the National Rifle Association takes well-deserved hits. We are a nation of interest groups, and surely the NRA is as influential as any in Washington, its effectiveness heightened by the number and the vociferousness of its members. As a widely distributed,

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1. There are at least eighty bills now pending in Congress which relate to gun control. *See, e.g.*, The Federal Handgun Control Act of 1975, S. 1447, 94th Cong., 2d Sess.

2. R. SHERRILL, *THE SATURDAY NIGHT SPECIAL* 280 (1973).

3. *Id.* at 297.

4. *See id.* at 19-33.

financially secure single-issue interest group, the NRA is capable of organizing vast, well-orchestrated letter writing campaigns aimed at a Congress already made amenable by the fact that numerous Congressmen and Senators are firmly on its side.

Sherrill dismisses as nonsense the NRA's assertion that the second amendment of the Constitution gives Americans a right "to keep and bear arms," on the ground that the amendment has long been held to refer only to the right of the states to establish and maintain a militia, and not to guarantee a personal right to possession of firearms.⁵ Sherrill notes, as testimony to the NRA's skillful lobbying effort, that the organization has been successful in convincing many Americans that they do have this right, in spite of weighty arguments to the contrary.

While the National Rifle Association is indeed a force to be reckoned with on the gun control issue, Mr. Sherrill points out the even more important impact of big business. Since the NRA is a large, influential and familiar lobby, it draws much of the attention away from the gun manufacturers and associated industries which wield enormous clout behind the scenes. These manufacturers comprise what can truly be called America's "firearms economy,"⁶ producing over \$580 million in firearms and ammunition each year. And this is just the tip of the iceberg. When the sales of sports clothes manufacturers, gun magazines, importers, and other related businesses are added in, Sherrill reveals, the reality is a \$2 billion-a-year industry.

The gun industry does not storm the strongholds of governmental decisionmaking with shrill voices and blatant propaganda. That role is reserved to the NRA. Instead, the firearms manufacturers quietly make it known to the "powers that be" that they account for many jobs and a sizable portion of the GNP. Thus, when the gun control advocates began to register some success with legislation which would ban the manufacture and sale of cheap handguns known as "Saturday Night Specials," one had to look behind the scenes to see why the gun lobby was offering little resistance to this first step towards more stringent gun controls.

The progress of Saturday Night Special legislation is not the result of crime in the streets, but of the law's substantial

5. *Id.* at 225-26, citing I. BRANT, *THE BILL OF RIGHTS* 486 (1965).

6. *Id.* at 9.

profit potential. Sherrill convincingly explains that the giants of the gun industry are quite eager to eliminate competition from the cheap imported guns which largely supply the Saturday Night Special market. These inexpensive imports have made a noticeable dent in the American gun industry's profits over the past two decades. Thus Sherrill contends that legislation designed to outlaw the sale of Saturday Night Specials will simply play into the hands of the manufacturers: instead of establishing meaningful controls, it will merely strengthen the domestic gun industry.

Congress is the third major actor on the gun scene. The generally cordial relationship of the Congress with both the National Rifle Association and the gun manufacturers is emphasized by author Sherrill, who argues that it poses an almost insurmountable obstacle for gun reformers. Members of Congress sit on the Executive Committee of the NRA and are similarly associated with the lobby group. In addition, 90 United States Senators and Representatives have joined the Advisory Board of the newly formed Citizens Committee for the Right to Keep and Bear Arms, a rich pro-gun coalition which will prove formidable opposition for proponents of firearms legislation. In short, Mr. Sherrill concludes that despite widespread citizen support and a decade of assassinations, prospects for significant progress in gun control legislation are not encouraging.

Against this backdrop of pro-gun support in the Congress, however, there is a substantial group of senators and representatives who are taking an increasingly active role in support of gun control. The Congress is finally becoming aware of the fact that a large majority of Americans favor firearms legislation.

In a recent Harris poll, 73 percent of Americans felt that some sort of gun control legislation should be enacted. In 1967 the figure was only 56 percent. This clear expression of public opposition to the easy availability of guns should bring more congressional support to bear on the issue.

However, most politicians continue to be extremely reticent about openly advocating gun control laws, a fact for which the NRA can take considerable credit. Many Congressmen and Senators feel that the National Rifle Association can and will engineer the defeat of elected officials who support such legislation. In recent years, the NRA has claimed credit for defeating Senators Albert Gore of Tennessee, Charles Goodell of New York, and Thomas Dodd of Connecticut. However, as Sherrill convincingly argues, "the truth is, there will always be a number of natural political deaths at the polls that the NRA can

take credit for, like a voodoo practitioner who can always depend on old age and heart attacks and diarrhea to help his 'spells' prove out."⁷ There can be little doubt that gun lobbies are influential with some voters; but, the author asserts, this influence has been totally overblown and distorted, not least of all by the NRA.

Indeed, the changing attitude of many members of Congress is pronounced enough to justify a cautious optimism for the possibility of gun control. Interest groups have begun to spring up on the side of firearms regulation, and their effectiveness has increased markedly in the past several years. Based not only in Washington but also in Boston, New York, and other major cities throughout the United States, these groups should provide invaluable aid in the battle for gun control legislation. Ultimately, however, the result will turn on the public's willingness to make its feelings known to its elected representatives. The opposition is entrenched. Without an outpouring of public sentiment, the gun control fight will continue to be an uphill one.

While Robert Sherrill has compiled a considerable body of information which should be very useful to gun control advocates in the furtherance of their cause, he concludes on an ironical and rather depressing note by explaining why gun control alone can never work. According to Sherrill, there are simply too many guns out there—over 200 million in the United States alone—and they are too easily produced. The potential task of locating and confiscating these firearms appears insurmountable. Further, Sherrill feels that adequate protection for citizens cannot be provided by either the police or the National Guard. In Sherrill's view, "Cops are even more trigger-happy than the crooks."⁸ For these and other reasons, the author concludes that effective gun control laws are impossible.

The dour conclusion which Mr. Sherrill draws from his research is like prescribing more morphine for the drug addict. While it is quite true that large quantities of weapons are already circulating in the United States, this does not mean that we should ignore the problem. Last year alone, 2.5 million handguns were added to those currently owned by Americans. Unless something is done, the figures are going to keep climbing.

7. *Id.* at 198.

8. *Id.* at 126.

With the increasing availability of guns, gun fatalities and injuries will also increase. Therefore, though gun control legislation initially will reduce the stream of guns only minimally, even a small decrease could save hundreds of lives and injuries in the course of a year. We will never be able to control completely the excesses of the gun, but that is no justification for refusing to act at all.

The Saturday Night Special is a very impressive study of the gun's place in American society. It is skillfully written and perceptive; the scope of information and detail is admirable. Mr. Sherrill does come forth with some rather shocking assertions, and his tone often approaches the level of pure iconoclasm. Yet this book can be no more disturbing than the gun problem itself.

EXPENDABLE AMERICANS. By Paul Brodeur. New York: Viking Press, Inc. 1974. Pp. 274, Softbound. \$3.45.

Reviewed by G. JOHN TYSSE*

In a narrow sense, Paul Brodeur's *Expendable Americans* chronicles the events surrounding a specific occupational hazard, exposure to asbestos dust, at a single location, the now abandoned Tyler, Texas, asbestos insulation plant of the Pittsburgh Plate Glass Company. In a broader sense, however, Mr. Brodeur's book dramatizes one of the most insidious problems of modern American society: workplace exposure of employees to toxic materials or harmful physical agents, exposure that may some day manifest itself as occupationally-related diseases that shorten a worker's normal life expectancy. The book describes in great detail the multitude of special interest groups—including government, unions, the medical profession, and academicians—having or asserting status to demand that an employer account for the health of the workers who are, were, or in the future may be employed in a workplace under the employer's control. It is this broader perspective that gives *Expendable Americans* real value as social commentary.

Expendable Americans, with the exception of a few updating changes, was initially serialized as a five-part article in *The New Yorker* magazine in the fall of 1973. Part I presents the history of the Tyler asbestos insulation plant, the gradual revelation of the seriousness of the asbestos exposure problem, and the actions and the reactions of the company, the union, and the government until the closing of the plant in early 1972. Part II relates the first-hand experiences of the author when he visited the Tyler area in the spring of 1972, and includes extensive interviews with several of the Tyler workers who had been directly affected by asbestos exposure. Part III recounts the 1972 public hearing held by the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) in an attempt to establish more protective standards governing asbestos exposure. Parts IV and V delve into areas of occupational hazards other than asbestos, with the author's observations and value judgments on the interrelationships of the parties directly involved.

Notwithstanding Mr. Brodeur's justifiable concern, it is extremely important for anyone reading *Expendable Americans* to realize that the book proceeds on several falla-

* Director, Occupational Safety/Health, National Association of Manufacturers.

cious assumptions. First, the circumstances surrounding the Tyler plant are presented by Mr. Brodeur as if they were typical of American industrial plants. Second, any medical doctor or health professional who is in any way connected with management (for example, the plant physician) is cast as having a greater concern for company profits than for worker health. Third, safety or health improvement in the workplace, it is implied, simply would not occur but for the efforts of organized labor. Finally, Mr. Brodeur would have the reader believe that there is a simple solution for the problems created by workplace exposure to harmful substances. The author is of course entitled to a certain amount of bias (as is the reviewer), but when presenting a factual account and drawing conclusions therefrom, care must be taken not to stray from the truth.

Let me state immediately that the events surrounding the Tyler asbestos plant raise grave questions that cannot be discounted. Not only did the workers there suffer daily impairment to their health from exposure to asbestos dust, but the situation appears to have been permitted to continue despite obvious indications to the company, the union, and the government that expeditious action was necessary to prevent further harm. I cannot speak for the parties involved in the Tyler case, nor will I attempt to do so. I can, however, deny the author's false implication that the Tyler plant was a representative example of management's attitude towards the health of the workers.

A telling example of Mr. Brodeur's obvious reluctance to look beyond the Tyler plant before drawing his conclusions is the rather glib reference, repeated throughout the book, to the "medical-industrial complex," as contrasted with an "independent medical and scientific community." Mr. Brodeur thereby creates an impression of villainous company doctors in confrontation with the crusading "white knights" of independent research and academia, a characterization which immediately maligns the integrity of any health professional associated with management. Further, Mr. Brodeur goes on to say,

Much of industry in the United States has long operated on the assumption that it could endanger the lives of its employees with relative impunity—and without embarrassing publicity and possibly damaging repercussions—so

long as it did not overtly threaten the health and safety of the community at large.¹

This statement is not only unfair, but it is belied by the progress that has actually taken place over the last half-century. For example, since 1912, the annual number of workplace accidents and fatalities has declined nearly 70 percent.² Since 1938, the on-the-job death rate has declined more than 50 percent.³ This improvement could not have taken place without a commitment on the part of industry to strive for safer working conditions.

It is tempting to point out other errors found in the book, errors which unfortunately reinforce the questionableness of the assumptions upon which he proceeds, and detract from an otherwise well-written and well-documented narrative. In several instances, the author presents as fact statements made to him by various union officials. Further investigation by Mr. Brodeur (a technique applied vigorously to statements made by industry representatives) would have revealed some of these statements to be less than wholly accurate. For example, a preliminary draft of a report on benzene research, prepared by a consultant under contract to OSHA, is referred to as a "standard." The impression is given that this "standard" was railroaded past the union representatives without opportunity for their input. The facts, however, show that the union representatives participated actively when the document was reviewed later.⁴ As another example, I was astonished to read that

[t]he National Association of Manufacturers has a full-time representative—office, phones, even a government expense account—at the very heart of the Occupational Safety and Health Administration operations.⁵

Since discovering this information in Mr. Brodeur's book, I have diligently inquired, with singular lack of success, the identity and location of that individual! In all seriousness, this simply is not the case, and should not have been presented as fact.

1. P. BRODEUR, *EXPENDABLE AMERICANS* 72 (1974).

2. NAT'L SAFETY COUNCIL, *ACCIDENT PREVENTION MANUAL FOR INDUSTRIAL OPERATIONS* ch. 1 (7th ed. 1974).

3. *Id.*

4. Echardt, *Annals of Industry—Noncasualties of the Workplace*, 16 J. OCCUPATIONAL MEDICINE 472-77 (1974).

5. P. BRODEUR, *EXPENDABLE AMERICANS* 208 (1974).

Turning next to the impression left by Mr. Brodeur that without the diligent efforts of organized labor, occupational safety and health would not improve, the truth is that with few exceptions, organized labor has been a latecomer to the occupational safety and health reform area. As late as 1970, of 272 collective bargaining agreements covering 500 or more employees, only 71 contained provisions for labor-management safety committees.⁶ By 1972 (two years after the passage of the Occupational Safety and Health Act of 1970), only 124 out of 503 selected newly negotiated agreements provided for joint safety committees.⁷ It appears that wages, hours, vacations, and so forth, were more important to the unions than safety and health. One union official stated in Congressional hearings in 1968,

I think a good part of the reason is our fault in labor. I go around speaking on behalf of this. In negotiating a contract, it appears that safety and health clauses come after coffee breaks.⁸

Having thus pointed out what I believe to be the major weakness with *Expendable Americans*, what is the major strength of Mr. Brodeur's book? It is this: the book is a searing narrative of the highly complex problem of illnesses and diseases that result from workplace exposure to harmful substances. While most people still view the workplace in terms of accidents and accident prevention, Mr. Brodeur quickly brings home to the reader not only the existence but also the ultimate tragedy of job-caused illness. As was stated by the National Commission on State Workmen's Compensation Laws in its report to the President and the Congress:

Technological advances have produced unfamiliar and often indeterminable physical and toxic hazards. Occupational diseases associated with prolonged exposures to unsuspected agents or to fortuitous combinations of stresses have undermined the usefulness of the "accident" concept. While advances in medical knowledge have facilitated the

6. *Id.*

7. Tillery, *Safety and Health Provisions Before and After OSHA*, U.S. DEP'T OF LABOR, MONTHLY LABOR REV. 40 Sept., 1975.

8. *Hearings on the Occupational and Health Act of 1969 Before the Select Subcomm. on Labor of the House Comm. on Education and Labor*, 91st Cong., 1st Sess., at 244 (Comm. print 1968) (statement of J. Suarez, Health and Safety Director, Int'l Union of Electrical, Radio, and Machine Workers).

treatment of many injuries and diseases, they have also enlarged the list of diseases that may be work-related.⁹

But after eloquently stating the problems associated with occupational exposure to toxic agents, Mr. Brodeur proposes a rather simplistic and naive remedy. Following his premise that the "medical-industrial complex" exists solely to maintain the status quo, or, in other words, in direct opposition to improved health conditions for workers, Mr. Brodeur maintains that the only way to combat such an attitude is through rigorous enforcement of strict governmental occupational health standards. He refers to provisions in the Occupational Safety and Health Act of 1970 declaring that no employee shall suffer material impairment of health or functional capacity from exposure to a hazardous substance¹⁰ as justification for unrelenting government enforcement. In examining the entire section to which Mr. Brodeur refers, however, one finds that the Secretary of Labor in setting standards dealing with toxic materials and harmful physical agents must also take into account their feasibility.¹¹

One of the amendments offered during consideration of OSHA by the Senate Labor Committee (an amendment that was ultimately adopted) was described by Senator Jacob Javits of New York as follows:

Feasibility of Standards—As a result of this amendment the Secretary [of Labor], in setting standards, is expressly required to consider feasibility of proposed standards. This is an improvement over the Daniels bill, which might be interpreted to require absolute health and safety in all cases, regardless of feasibility, and the Administration bill, which contains no criteria for standards at all.¹²

In one of the major cases to date interpreting the "feasibility" requirement—a case which Mr. Brodeur curiously describes as not reaching a clear-cut decision, even though it upheld OSHA's final asbestos standard on all but two minor points—the United States Circuit Court of Appeals for the District of Columbia construed this language to mean

9. REP. OF THE NAT'L COMM'N ON STATE WORKMEN'S COMPENSATION LAWS 35 (1972).

10. 29 U.S.C. § 655(b)(5) (1970).

11. *See id.*

12. SUBCOMM. ON LABOR OF THE SENATE COMM. ON LABOR AND PUBLIC WELFARE, 92d Cong., 1st Sess., LEGISLATIVE HISTORY OF THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970, at 197 (Comm. print 1971).

that practical considerations can temper protective requirements. Congress does not appear to have intended to protect employees by putting their employers out of business—either by requiring protective devices unavailable under existing technology or by making financial viability generally impossible.¹³

My point in presenting this background is to stress that workplace exposure to toxic agents cannot be dealt with in terms of good guys and bad guys, or harmful exposure versus non-exposure. It is impossible to overstate the difficulty involved in trying to establish what is feasible. Technological achievability, economic impact, magnitude of risk, production interference potential, effectiveness of personal protective equipment—all of these are relevant factors that must be considered in determining feasibility.

Until the nation decides that American industry shall provide a workplace absolutely free from harmful exposures, whatever the cost or difficulty, it must be willing to measure the problems associated with exposure to harmful substances in terms of “acceptable risk.” In other words, how much is our society willing to sacrifice in order to guarantee the absolute protection of all employees on the job? As matters now stand, the Secretary of Labor’s determination of feasibility is of critical importance to both the worker and the employer.

Thus, to focus simply on government enforcement of health and safety standards, without addressing the practical difficulties in finding workable solutions, minimizes the real effort it will take to correct this problem. Further, I would submit, to achieve optimal health workplace conditions there must be an atmosphere of cooperation rather than confrontation among all those with a vested interest in fashioning a remedy. It is time to stop pointing the finger for past wrongs. To the extent that *Expendable Americans* achieves the purpose of bringing to light a very serious and highly complex American social problem, I say bravo.

13. Industrial Union Dep’t, AFL-CIO v. Hodgson, 499 F.2d 467, 477-78 (D.C. Cir. 1974).

