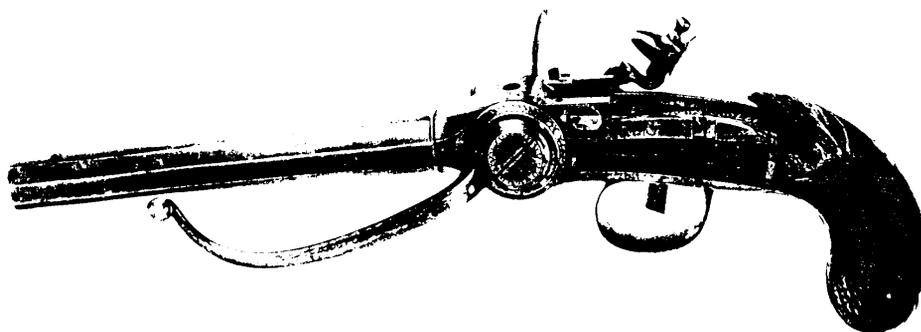


GUN CONTROL IN BRITAIN

SEAN GABB



On Wednesday the 19th August 1987, an unemployed Hungerford labourer named Michael Ryan, armed with a semi-automatic rifle, and in a mental state unknown to us, went through his home town, shooting anything that moved. He shot and killed 14 people., including his mother His suicide a couple of hours later, and the subsequent deaths of two of the 16 wounded, brought his total to 17. Such killings being a rarity in England, their effect was tremendous. Every small detail of the event was collected and printed; and, when the stock of true details ran low, tabloid imagination supplied the lack. A fund was set up for the survivors or the victims' next of kin. Within a few weeks it had raised £380,000.¹ Yet, with curiosity and sympathy, perhaps no other emotion competed for primacy in the public mind so strongly as determination. The Hungerford Massacre, it was resolved, should not be repeated. And, as though the one naturally followed the other, the cry went immediately up for a tightening of the law controlling guns.

'The existing legislation is wholly inadequate ...' said the General Secretary of the Police Superintendents' Association. 'There are too many guns in circulation and a lot of people who have guns clearly should not be in possession of them.'² Stephen Waldorf, perhaps, might agree with this. So might the relatives of Cherry Groce. (These were innocent British citizens set upon and shot in error by the police - ed.) But whatever may be thought of their speaker, the words themselves only expressed the general belief regarding firearms. Stricter controls were essential, it was agreed, if criminal shootings were not to become part of the normal run of things. Such was the opinion six months ago. Reinforced since by a spate of armed robberies and killings with shotguns, such remains the opinion now. 'Weapons should be kept under conditions so secure as to exclude most householders from keeping them' wrote *The Times*.³ Indeed, the latest Gallup Poll on the issue reports public favour at 75% for the banning of all guns from private ownership.⁴ Leave aside the efforts of some Conservative backbenchers, and of all the measures likely this year to have the Royal Assent, possibly none will have had so easy and uncontroversial a passage as the Firearms (Amendment) Act.

Yet for all its lack of controversy, the Bill is easily the most illiberal measure of this entire long parliamentary session.⁵ For legal access to firearms is already strictly and comprehensively limited. The 'wholly inadequate' current legislation already forbids the public to own automatic weapons.⁶ Everything else, excepting shotguns, which have a less restrictive form of control - and the most feeble airguns - requires a Firearms Certificate, which is had from the local Police and is renewable every three years. On it must be recorded all transactions in weapons and ammunition. Applicants must satisfy the Police of their 'good reason' for possessing any certifiable weapon, and that they can be trusted with it 'without danger to the public safety or to the peace'.⁷ 'Good reason' is normally held to be membership of an approved shooting club, or use of land not open to the public - but not, at least since 1946, self defence.⁸ Forfeit of a certificate can result in loss of all firearms held.⁹ Unauthorised possession is a serious offence, bringing a penalty of three years imprisonment, or an unlimited fine, or both.¹⁰ There is a penumbra of controls in other statutes which, taken entirely, might seem already to discourage all but the most determined from lawfully keeping guns. Despite all this - despite levels of control comparable to those in Rumania on typewriters - more is following. Some of the Bill's harsher clauses have subsequently been softened.. Not all semi-automatic rifles and pump action shotguns will be prohibited, as was at first intended. Nor are weapons to be taken without compensation. But certain kinds of shotgun are to be made fully certifiable, and access to other kinds restricted. There are still more than a million certificate holders in this country. They are nearly all peaceful and responsible citizens. The new Act, when passed, will yet more limit their right to lawful enjoyment of an activity quite as popular as any better known sport.

But the rights of sportsmen, though important, are not all that are threatened. There is the matter of our constitutional rights - those famous Rights of Englishmen, which have been the crude matter from which every liberal doctrine has been refined, and possession of which we trace back into the mists of time. To bear arms is one

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FOR LIFE, LIBERTY AND PROPERTY



of those rights, and the one with which the others have repeatedly been protected. To go back only to the Revolution, it is specifically affirmed in the Bill of Rights;¹¹ and one of the grievances against James was that he had caused 'several good subjects, being protestants, to be disarmed ...'¹² A disarmed people was believed a sure sign of approaching or actual tyranny, and Gibbon, in the next century, only voiced the general prejudice in declaring that '[a] martial nobility and stubborn commons, possessed of arms, tenacious of property, and collected into constitutional assemblies, form the only balance capable of preserving a free constitution against enterprises of an aspiring prince.'¹³

For centuries there has been no good reason here for pulling down a government. The right to bear arms for personal defence was nonetheless jealously preserved, and still exercised into a time almost within living memory. Ninety years ago, it was possible for anyone in this country, regardless of age or capacity, to walk into a gunsmith's and buy as many guns and as much ammunition as he could afford. Since no effort was made to count the number of guns in circulation, numbers are uncertain. But over 4,000 imported pistols and revolvers were submitted for proof at the Birmingham Proof House in 1889; and 37,000 British pistols were submitted in 1902. Price was no constraint on ownership: pistols of a kind started at 1s 6d,¹⁴ or eighteen times the cost of a daily newspaper. There was, it should be said, Section 4 of the 1824 Vagrancy Act, which penalised the carrying of offensive weapons with intent to commit a felony. There was the Gun Licenses Act of 1870 - despite its name a revenue measure requiring a 10s license to be taken out before any kind of firearm could be carried or used outside of a private dwelling. Licenses were available without question at all Post Offices. These restrictions aside, guns could be had as readily and legally as television sets can today.

A CASE FOR MODERATION

Quite obviously, the mere assertion of rights is no defence of them; and it would be a very feeble case against gun controls that rested here. The function of constitutional rights is to safeguard freedom, the function of which in turn is to allow the pursuit of happiness - however this may be conceived. There is no value in calling for rights which, if had, would frustrate this purpose, or which would give more freedom than is compatible with its own survival. Certainly, they are not to be interfered with for any light, transient reason. Neither, though, are they to be enjoyed absolutely, without regard for circumstances. Freedom of speech, for example, is one of the essential doctrines of liberalism; yet no liberal of any common sense would press equally hard for it in every instance. There are places where the open discussion of certain matters would produce not the elimination of error but bloodshed on a massive scale. Even in this country, there may be some danger that too much flaunting of blasphemy might provoke an otherwise indifferent majority to censoring the press. When therefore the exercise of any one right seems to endanger the continued exercise of others, or of itself in a milder form, its curtailment becomes a proper matter for thought.

Now, perhaps the individual owning of guns is another such instance. There were few controls in the last century because few were required. But the present age is believed more violent than any before it. There has been both an increase in the effectiveness of most weapons and an increasing willingness to use them; and new threats to public safety call for new forms of protection. On this point, Peregrine Worsthorne draws an ingenious analogy with the road traffic laws - superfluous once but now essential.¹⁵ No one can know for certain what would happen without controls; but American experience is normally taken as a good indicator. There, despite some controls, guns are to be had virtually on demand, the murder rate is regularly almost ten times that of England and Wales, and more than three fifths of all murders are committed with guns.¹⁶ Three Presidents have been shot this century, two of them fatally. And even stockbrokers have not been immune from the anger or disappointment of an armed public. Perhaps, without what controls we have, armed violence in England might increase

to similar levels. Or fears for life and property might even cause a lapse into a simpler, and more despotic, form of government and justice. For avoiding either of these, the limiting of freedom involved in gun controls is generally thought well worth the price. Put forward as it is with great frequency and unanimity, the argument does have an appearance of plausibility. Critically examined, however, it is found to rest on a number of false assumptions. First, most obvious and most easily exposed, there is the belief that gun controls were put on in response to a need for them. Almost the exact opposite is true.

THE HISTORY OF GUN CONTROL

Though guns were freely available, the late Victorians seem to have been anything but careless or violent in their use of them. According to Coroners' reports, in the three years from 1890, there was a total of 524 deaths attributable to firearms. 443 of these were suicides, which, being voluntary matters, are not our concern. This leaves 49 accidental deaths and 32 homicides. Accidents are not presently our concern, involving as they often do self-inflicted harm. This leaves an average of 10 instances per year of the lethal misuse of guns.¹⁷ Regarding their more general use in armed crime, not much can be said owing to a lack of continuous statistics. But, in the nine years to 1889, 13 police officers were wounded by armed burglars in the Metropolitan Police District. During the next five years, three were so wounded in the whole of England and Wales, an area with a population five times larger. In the earlier period, 18 burglars escaped by using firearms in the Metropolitan Police District; in the later period, in England and Wales, the number was still 18.¹⁸ These were not unusually peaceful years. They knew the Fenian bombing campaign in London, and the Jack the Ripper killings. Yet guns were very seldom used.

Controls, nonetheless, began in 1903, with the Pistols Act, which required the production of a Game or Gun Licence before buying certain kinds of pistol. In the absence of any crime wave, supporters of the Bill were reduced to giving anecdotal evidence of shooting incidents involving children.¹⁹ But it was not seen as controversial, and had an easy passage.

Next came the Firearms Act of 1920. Still, the use of guns in crime was almost insignificant: between 1911 and 1917, there were 170 instances in London, or an annual average of 24.²⁰ But, with civil war in Ireland, fears in England of a Bolshevik coup, and the prospect of millions of demobilised weapons coming onto the home market, it was agreed that something ought to be done. Precedent sanctioned temporary measures. The Government chose permanent ones; and its Act was substantially the modern scheme of control. Only one Member spoke of constitutional rights. He was ignored, and the Bill went through both Houses almost by acclamation.²¹ During the next twenty years, the rate of nearly every type of crime fell. Looking at the eighteen months to the end of 1937, for example, only seven people arrested in the Metropolitan Police District were found in possession of firearms.²² More controls, however, came in 1937, making sawn-off shotguns and smooth bore pistols certifiable weapons, and prohibiting automatic weapons.

Shotgun controls date from 1967, and were the direct response to the killing of two policemen by criminals with *pistols*. Much was said about a trebling since 1961 of indictable offences involving shotguns. Probably there was an increasing use of shotguns. But, for every year since 1961, the figures showing this increase had been collected on a different basis; and the phrase 'indictable offences involving shotguns' covered every crime from armed robbery to the theft of unusable antiques.²³ Controls on the more powerful sort of airgun followed in 1969, though not one instance was produced of them having featured in a crime or accident.²⁴

And so we have all but lost a right which our ancestors thought equal in importance to the Habeas Corpus Act and trial by jury. And we have lost it with scarcely a shred of good evidence that the loss was required on the grounds of public safety. It would be gloomy yet satisfying to think ourselves victims of despotic rulers

or a coalition of special interests. Yet if there is one certain fact in the progress of our gun controls towards completeness, it is that they have been overwhelmingly popular. At almost every stage, they have been quietly accepted or loudly demanded. They are the outcome not of any specific unhappy circumstances, but of general lack of interest in being free which has been the mark of this country in the period of its decline.

Against controls in the present, of course - whatever suspicion against them it might raise - this purely in itself is no argument. Simply because they were not needed once is no reason for not having them now. Every hypochondriac, after all, does eventually die; and, in the age of Michael Ryan, rather than criticise the superfluity of past legislation, perhaps we should praise the foresight of its makers. But though it is nearly an article of faith that the Firearms Acts are all that keeps London from becoming like Detroit, faith is no guarantee of truth. Different nations have different patterns of behaviour, and with these go different propensities to violence. If there is greater misuse of guns in one country than in another, there is surely more to explaining the variation than knowing whether guns can be had on demand or by permission. The example of America tends to dominate all talk of gun control. But America is by no means the model of what a country without them must inescapably become. Switzerland has very moderate controls, and every man there of military age is even required to keep firearms on his property. Yet the murder rate is regularly lower than our own,²⁵ and guns are seldom used as a weapon of assault.²⁶ Or, to look near the other extreme, there is Northern Ireland. Controls there are more severe even than in England and Wales, only one firearm being allowed per certificate, and shotguns and all air-guns being fully certifiable weapons. Nonetheless, the murder rate in that unhappy place was actually higher in several years than that of the United States.²⁷ Or there is even our own example to be looked at. A shared language and popular culture make England almost a satellite of America. It may be yet noted that the American murder rate with knives alone is far higher than the murder rate in England and Wales from all causes combined;²⁸ and the only restriction on having any knife whatever in England is at most the additional cost of a ferry ride across the Channel. If our crime rate is below the American even in those cases where no preventive barriers exist to parity, it hardly seems likely that our gun controls are all that contains the rate of murder by shooting.

DO CONTROLS HAVE ANY USE?

This being so, there remains the claim that controls, if not equally needed in all places, may still have a certain use. For, on the above principle, it is arguable that repealing all our laws against murder might leave us safer on average than the Americans, though they were invariably to catch and execute their murderers: and who would suppose this a good case for repeal? Therefore, though already low, the criminal use of guns in Switzerland might be even lower were they less easily available. Northern Ireland, without any controls, might well slip from endemic terrorism into civil war. But so far from saving the case for controls, this claim only rests it on and isolates its most basic assumption, which is that they work. While there is little doubt that threatening the appropriate penalties may check the rate of murder or other crimes, it is very much less certain whether controls on guns do much to prevent their misuse.

Take the incidence of professional armed crime, which is normally the main object of public concern. If controls had any substantial effect here, we might expect to see some reflection of it in the statistical tables. We should see, that is, little use of fully automatic weapons, these being prohibited. Use of handguns, having been controlled nearly seventy years, we might see rather more of. But shotguns and powerful airguns, subject to control only these past twenty years, we ought to see as almost the general firearm. We see, of course, nothing of the kind. Choice of firearm seems determined far more by preference than theoretical availability. In 1967, shotguns, though just controlled, were used in only 21.3% of armed robberies. Pistols, however, were used in 45.6%.²⁹ Twenty years later, the proportions have not greatly changed: the 1985 figure for

shotguns was 26.8%.³⁰ For obvious reasons of convenience and firepower, most criminals who wish to carry a gun will prefer to carry a handgun - this in spite of the written law. But the law can regulate possession only of what the Police know to exist. How many uncertified weapons there are no one knows. Guns wear out slowly, and are not hard to repair. There might easily be millions of them in the country, held either since before the 1920 Act or since the War, when many controls were practically annulled by circumstances. Certainly, in the four amnesties between 1946 and 1968, weapons handed into the Police exceeded 20,000.³¹ Another amnesty is planned for this year, and it will be interesting to see how many warehouses will be filled this time with old service revolvers and exotic memorabilia. It seems unlikely in the nature of things that many of the weapons handed in were or will be owned for criminal purposes. The number is, however, vast; and it may be wondered how many others have found their way into the pool of uncertified guns available for criminal use. Otherwise, if demand for guns exceeded the domestic supply, imports could never be kept out.³² The record of our drug laws illustrates how difficult it is to control the movement of small but greatly desired items. More specifically, opposed even by one of the best anti-terrorist forces in the world, the IRA has no shortage of personal weapons, only of the men to fire them. For these reasons, if the use of guns in professional crime is increasing - and it almost certainly is - the speed of the increase seems almost wholly determined by fashions within the criminal classes.

Take the next incidence of domestic violence. There can be few households that are completely peaceful, and disputes within them are often peculiarly savage. Whether there would be more disputes, and of greater violence, in the absence of control cannot be known. Perhaps more arguments than now become crockery fights would otherwise become shooting matches. But, writing of homicides in general, the conclusion of at least one researcher is firmly that 'more than the availability of a shooting weapon is involved in homicide ... The type of weapons used appears to be, in part, the culmination of assault intentions or events and is only superficially related to causality'.³³ It may easily be, then, that gun controls keep down the number of domestic murders by shooting, but do so largely in those cases where murders are committed anyway, though by other means. They may do little more than force a substitution for handguns of shotguns, crossbows or other, less convenient weapons.

Finally, take Michael Ryan. How maniacs are to be abolished by Act of Parliament probably not the most fervent supporter of the Firearms Bill can explain. Ryan is said to have been obsessed by guns, and there are few obsessions that are not more powerful than the law. Even if public opinion had had its way years ago, and civilian ownership of all firearms had been absolutely prohibited, he might still have collected an armoury quite as impressive as the one he acquired by legal means alone. The existing controls did not put him off. The new controls will not put off anyone strongly inclined to follow his example. What they might do, indeed, is make his example all the easier to follow. How far would Ryan have got that day had his victims been carrying guns of their own? - had not controls disarmed the law-abiding? As it was, nothing endangered him until armed police could be brought in from outside.

None of this should be taken as denying that a problem does exist. The incidence of all violent crime has increased alarmingly during the past four decades. The criminal use of firearms, once a rarity, is verging on the commonplace. It would be unnatural were people to look on these increases and not demand that something be done. Even so, it must be stressed - and repeatedly so - that gun controls are not the required solution. They take from us an important natural right without proper reason and without substantial benefit. Certainly, they do have some damping effect on the rate of criminal misuse. They put the lower class of street thug to the trouble of making phone calls or waiting in public houses before being able to go about armed. They ensure that enraged marriage partners reach out for carving knives more often than automatics. There are some

people who would cry up even the smallest potential saving of life as justifying the controls. Similarly, there are people who believe the avoiding of a few disorders to justify censoring the press, or who want motor cars banned on account of the road casualty figures. Every kind of freedom is attended by particular ills, and looking only at these, ignoring its general advantages, is a sure means of herding free men into a slave gang. As said, freedom may be limited for reasons of public safety. But, to justify any limitation, the balance of advantage must weigh far more heavily in its favour than it does in the case of gun control. This is so taking the measure only in itself. And the balance falls still heavier considering also the scheme of law enforcement of which control is an important part.

THE ABANDONMENT OF DETERRENCE

According to the old jurisprudence, crime is most effectively deterred - of course assuming detection - by the severity of punishment. This is a harsh doctrine, sanctioning as it often does very severe punishments indeed. It is also a strictly limited one. It involves a precise and known use of state power - a collection and focussing of it over a small area, much as burning glass does to the sun's rays. Only criminals are to be in fear of that power: the rest of us are to be left freely to go about our business. Today, harshness is no longer in fashion. There is no death penalty, nor flogging, nor hard labour. They are thought barbarously cruel by those whose opinions count. Therefore, when mildness and attempts at the reformation of character fail, the only means left of ensuring obedience to the law is to try restricting the means of breaking it. Yet, though apparently more humane than deterrence, prevention requires the most constant and unwelcome modes of State supervision. Acts which in themselves may be completely harmless, or at least innocent, come under police inspection. Those who use guns in crime are an almost insignificant minority of all who own guns. Yet the entire class of gun owners is treated as a potentially criminal class. Those who take out licenses open themselves to all manner of legal harriving. Those who prefer not to, though perhaps without the least aggressive intent against life or property, become criminals - to be punished if caught. As best illustration of this, however, take not gun controls, but the great Miners' Strike. Violent mass picketing is a breach of public order, and should always be put down with whatever force may be required. Tear gas, baton charges, severe punishment of all taken on the scene after a state time - these are the proper means of dealing with riots. But modern English law has no Riot Act. Instead of mobs being dispersed, road blocks were set up, for the Police to stop motorists and turn them back or arrest them if suspected of travelling to a picket line.³⁴ Putting a rope round someone's neck is surely an unhappy thing to do. But is it so bad and unthinkable as trying to govern an entire nation as though it were a prison or a school? As was said against another species of prior restraint: 'He who is not trusted with his own actions, his drift not being known to be evil, and standing to the hazard of law and penalty, has no great argument to think himself reputed in the Commonwealth wherein he was born for other than a fool or a foreigner'.³⁵

The normal conclusion to this kind of essay is to call for the dismantling of controls, and to discuss the ways in which it might be done. My own feeling, however, is that this would be to end on a note of inappropriate optimism. Much is said of a liberal revival in this country since 1979. Certainly, the economic role of the State is smaller now than ten years ago, and this is reason to be glad. But it should not be mistaken for more than it is. Just as even the Chinese and Russian governments have abandoned the greater follies of socialism, so has our own tried a limited freeing of markets - and for much the same mercantilist reason, of preserving or maintaining a certain national status. The immediate needs of economic efficiency are one thing. Liberalism is something rather larger, and altogether stranger and more frightening to Government and public alike.

The Firearms Bill will become law, and after a decent interval will be followed by another, and then by another, until guns are in the

ory outlawed among the civilian population. There is no opposing the general will on this point. There is no place for fantastical schemes of deregulation. All that can usefully be done is to observe and record the progress of folly - and hope that its worst consequence will be felt by a later generation than our own.

NOTES

1. *Times*, 31/8/87.
2. *Times*, 22/8/87.
3. *Times*, 16/10/87.
4. *Daily Telegraph*, 10/2/88. It should be noted that the poll was commissioned by the League Against Cruel Sports, and that none of the questions asked was published in my source.
5. See the Bill reviewed in *Policing London* for December, 1987, produced by the Police Monitoring and Research Group of the London Strategic Policy Unit (a major part of the GLC's ghost).
6. Firearms Act, 1968, s 5.
7. *Ibid* 27 (1).
8. Colin Greenwood, *Firearms Control: A Study of Armed Crime and Firearms Control in England and Wales*, Routledge & Kegan Paul, London, 1972, p. 92.
9. F.A., 1968, ss 51 & 52.
10. *Ibid*, ss 3 (3). 51 (1). (2) & Schedule 6, Part 1.
11. Bill of Rights, 1689, S II (7) - 'That the subjects which are protestants may have arms for their defence suitable for their conditions, and as allowed by law.
12. *Ibid*, I (6).
13. Edward Gibbon, *History of the Decline and Fall of the Roman Empire*, Chapter III - last sentence of first paragraph.
14. Greenwood, op. cit., p. 26.
15. *Sunday Telegraph*, 27/8/87.

16. MURDER RATES PER 100,000 - VARIOUS COUNTRIES

	1976	1977	1978	1979	1980
U.S.	9.1	9.2	9.4	NA	NA
ENG. & WALES	1.1	0.9	1.2	1.1	0.8
SWITZERLAND	0.9	0.9	0.7	0.9	NA
NORTHERN IRELAND	13.7	14.3	5.7	NA	NA

Source: Statistical Abstract of the United States: 1982-3, Washington D.C. 1982, Table 297.

MURDERS IN U.S. - % RATE GUNS AND KNIVES

YEAR	MURDERS	GUNS %	KNIVES %
1970	13,649	66.2	17.8
1975	18,642	65.8	17.4
1980	21,860	62.4	19.3
1981	20,053	62.4	19.4

Source: *Ibid*, Table 298.

17. Greenwood, op. cit., p. 22. Despite ignoring accidents, I cannot help relating that, in 1892, accidental deaths due to misuse of pistols were just three more than those due to misuse of perambulators (*ibid*).
18. *Ibid*, Table 2.
19. *Ibid*, p. 29.
20. *Ibid*, Table 5.
21. *Ibid*, Chapter 3.
22. A further 12 had airguns, and one a toy pistol - *Ibid*, p. 70.
23. *Ibid*, Chapter 8.
24. *Ibid*, p. 89.
25. M. B. Clinnard, *Cities Without Crime: the Case of Switzerland*, Cambridge University Press, 1978, pp. 114-5.
26. See *Ibid*.
27. See Table above.
28. See Table above.
29. Greenwood, op. cit., p. 236.
30. From official figures (quoted by the Shooters' Rights Association).
31. Greenwood, op. cit., p. 236.
32. It might also be said that guns are not difficult to make or convert. See L. Wesley's very interesting *Air-Guns & Air-Pistols*, Cassell, London, 1979.
33. Marvin E. Wolfgang, *Patterns of Homicide in America*, University of Pennsylvania Press, 1958, p. 82 (quoted in Greenwood, op. cit., p. 130).
34. See *Policing London: Collected Reports of the GLC Police Committee*, 1986, p. 100.
35. John Milton, *Areopagitica*, Clarendon Press, 1886, p. 30.