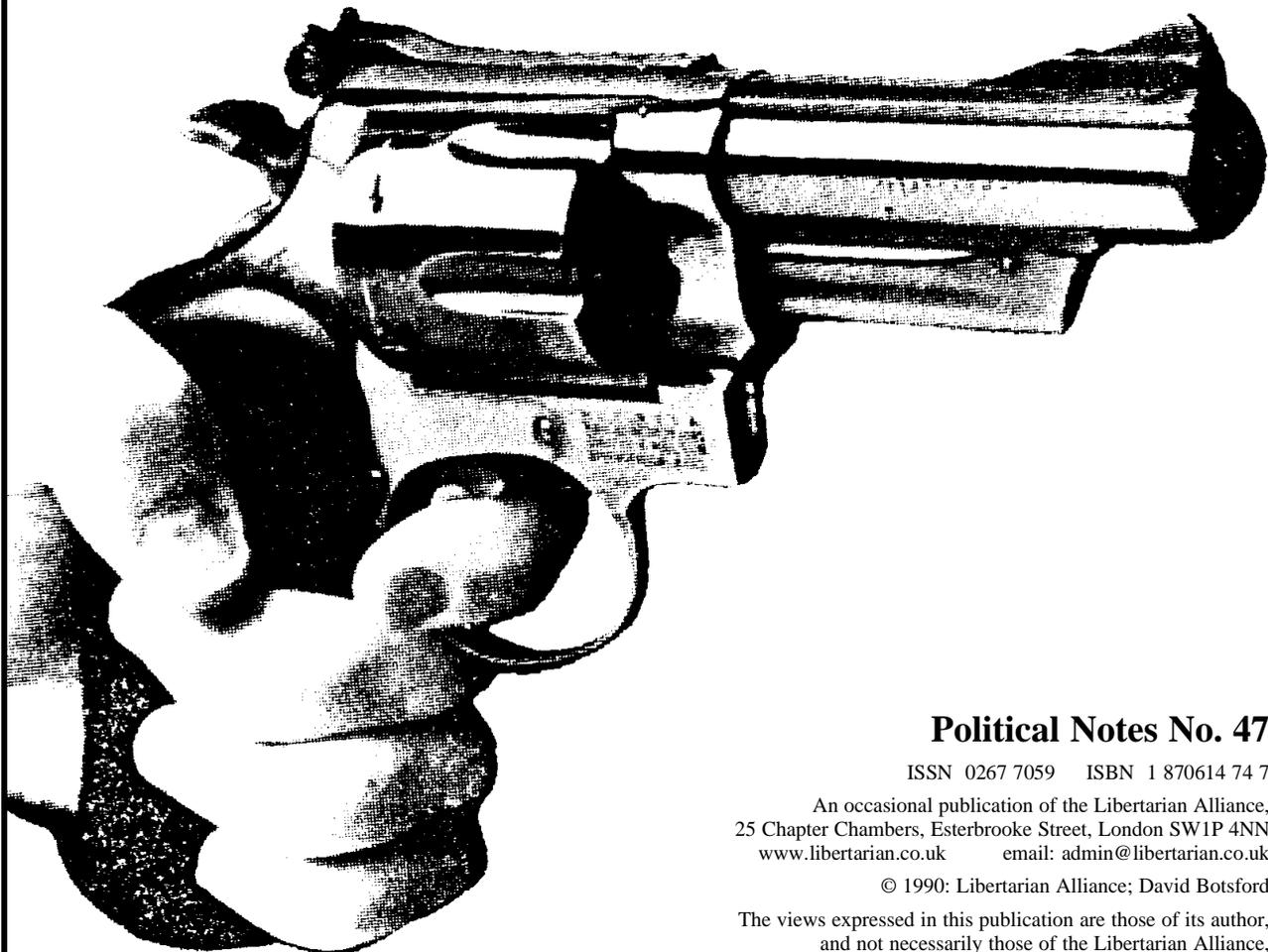


THE CASE AGAINST GUN CONTROL



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FOR LIFE, LIBERTY AND PROPERTY

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Whoever controls the weapons makes the rules. Political power, that is, the power of one individual over another, rests partly on assent on the part of the ruled, whether through perceived self-interest or belief in the justice of the ruler's claim to power (or a combination of both), and partly on the capacity of the ruler to enforce his power over the subjugated by his control of more physical force than the latter. These factors are related: the majority of people throughout history either have not been in a position, or have not had the inclination, to make up their minds about abstract political ideas and then decide whether or not their current political arrangements suit these ideas; the very fact that the claim or assumption of power is made, backed up with sufficient capacity for violence to enforce it, is enough to make most people not only go along with the wishes of the ruler, but few will question the abstract legitimacy of his right to assert them. State power is a combination, in varying proportions, of violence, fraud, extortion and conspiracy to rob other people. In politics, unfortunately, might makes right, generally speaking. And neither is this true simply of conventional political relationships: psychologists record many cases of victims of terrorist hijackings falling in love with their captors, and in situations, such as the end of the American civil war, or the abolition of slavery in other countries, where slaves have suddenly been released from bondage, plentiful evidence exists that many ex-slaves were far from happy about their new situation.

The same principle applies to situations where the individual is simply trying to preserve power over himself or herself, rather than impose it on someone else. Where the individual has the capacity, if necessary, to defend himself and his property by force, and to inflict injury or death on those attempting to violate them, that factor will always be present in the thinking of those seeking to exercise coercion over him, whether by political power or by more honest forms of robbery. While this capacity will by no means make anybody immune to such coercion, it will nonetheless be a limiting factor in what potential coercers will attempt to get away with.

WEAPONS AND THE INDIVIDUAL

This history of technology has, in general, been partly one of continuous enhancements in the power of the individual (interrupted by various Dark Ages and relatively static periods), and partly one of attempts by those in power to restrict the spread of such improvements: for centuries after the invention of printing, Church and state authorities attempted to restrict the spread of both printing presses and printed books. Many inventions have been used both for the benefit of individuals, and for state control over individuals. Barbed wire greatly assisted the farming of cattle, and also made possible the development of concentration camps. With the early spread of computers in the 1950s and 1960s, fears were expressed that they would facilitate totalitarian controls by the state over the individual: in fact, while such fears have proved far from groundless, more significant is the use of personal computers in setting up alternative net-

works of information which have helped to undermine totalitarianism, particularly in the Soviet bloc.

Nowhere is this dichotomy clearer than in the field of weaponry. Throughout most of history the technology of weaponry made it rather difficult for the individual effectively to defend himself against more powerful enemies. This led to political dependence on somebody else. In Europe in the early middle ages, for instance, the development of feudalism meant that the peasantry lost what individual autonomy they had: unable effectively to defend themselves against invading barbarians, the peasant had to accept an arrangement with a local lord whereby he became the latter's vassal in return for protection. The lord was rich enough to pay for the castle and knights which were able to defeat the barbarian raiders; this capacity, and the political arrangements consequent on it, gave him in most cases virtually the power of life and death over his villeins and serfs. While feudalism varied greatly from place to place, control over effective weaponry clearly reflected political power. In 1215, the barons of England, each with their own feudal armies, succeeded in forcing King John to sign Magna Carta because they had the military power to do so when the king was temporarily unable to finance sufficient forces to resist them. In 1381, by contrast, the great uprising against prices and incomes policy and poll tax known as the Peasants' Revolt (but actually led by merchants, craftsmen, clerics and townspeople) was tricked and then brutally repressed by the royal authorities because, according to a contemporary source, "some carried only sticks, some swords covered with rust, some merely axes and others bows more reddened with age and smoke than old ivory, many of their arrows had only one plume."¹

The development of gunpowder, artillery and other firearms brought about a changed situation. On the one hand, the king was able to destroy the power of local barons and establish a centralised monarchy in which his power was exercised throughout his realm, as only he could afford the huge cost of armies equipped with artillery, which could destroy the barons' castles' walls, if they failed to submit to the king's wishes. On the other hand, the development of small arms made it increasingly possible for the ordinary individual to provide for his own defence, either alone or in concert with others. The introduction of repeating rifles and revolvers in the 19th century marked one of the most important technological revolutions in history in this respect. Before the introduction of small firearms, the individual armed with a sword, axe or pike would stand little chance against a group of marauders similarly armed; the bow took years of practice to master, and even an expert bowman could almost never prevail against a number of similarly-armed enemies, who could strike him down as he notched another arrow. Even the musket had a lengthy and complicated reloading procedure, during which its possessor was vulnerable, and could be rendered ineffective if rain extinguished the fuse. Another problem was that early muskets and pistols could only be produced expensively by hand, thus restricting the number of people who could afford to buy them: the many

fine specimens with intricate silverwork that we see in museums were specially made by gunsmiths for wealthy customers; the more plain ones were generally for the use of soldiers in royal armies.

But the repeating rifle and revolver enabled the user to fire several shots in succession without having to reload; the chances of a skilled marksman against several enemies were greatly improved. These could also be mass-produced in factories at very low cost, bringing them within the reach of almost everybody. The individual armed with these weapons, and practised in their use, therefore achieved considerable autonomy in terms of the defence of his own life and property. One political implication of this was that, since political authority, whether that of the feudal master or the modern state, had rested largely on the claim that the powerful were protecting the powerless, who in return owed the powerful (whether an individual monarch or noble or an idea, such as “state”, “nation” or “society”) allegiance, the scope of this authority could therefore be reduced to the extent that the previously powerless were now able to defend themselves. In response to this situation the state sought to restrict private ownership of weapons and establish a monopoly of legal force within society, in order to reinforce and increase its own power. Indeed, if the state could convey the illusion that the private ownership of weapons, and the willingness of individuals to use these weapons to defend themselves if necessary, was itself a “threat to society” of some sort, for example by associating it with the use of weapons in robbery and murder, then this progressive technological development could be used as a justification for even further extending state power at the expense of individual liberty. Not only would the individual be made dependent on whatever the state may or may not effectively provide for his protection against aggressors, but he would be incapable of self-defence if the state itself should become the aggressor.

POLICE MONOPOLY

This, of course, describes the situation in Britain today. Britain has by far the strictest controls on the private ownership of firearms and other weapons of any western country, and the smallest distribution of (legally-held) firearms. During unrest in Soviet Georgia early in 1989, in the course of which 21 demonstrators were shot dead in Tbilisi by the Soviet authorities, one measure introduced by the regime to put down the protests was the seizure of all privately owned firearms in Georgia. The number seized proved to be almost exactly the proportion of legally-held firearms per head as those owned by the British population. It is a sobering thought to anyone who has noticed how short and insecure in history are the periods of relative freedom compared to the periods of oppression that the British people would be in no better position to defend themselves from any future tyranny imposed by a British government than are the oppressed people of Georgia.

Indeed, we are not even allowed adequately to defend ourselves from violent assault by individual aggressors. In 1987 Eric Butler, aged 55, who had been entirely law-abiding throughout his life and who was, among other charitable activities, a fund-raiser for the Royal National Lifeboat Institute, was assaulted on the London Underground by a gang of drunken young men. Evidently motivated by entertainment rather than material gain, the youths first punched, strangled and kicked Mr Butler, then held him against the door of the

train and repeatedly punched him and pushed his head hard against it. He succeeded, however, in drawing a sword-stick which he carried with him and wounding one of his assailants in the stomach (the attacker ended up in hospital for several days), thereby breaking free. At the next station he immediately informed the police, who proceeded to arrest Mr Butler and charge him with carrying an offensive weapon and causing grievous bodily harm, while releasing the two attackers. Mr Butler was fined, thereby gaining him a criminal record, and his sword-stick was confiscated. After a public outcry, two of the attackers were eventually charged with assault and themselves fined.

The individual is expected to rely exclusively on the police for protection, and to use no force against attackers beyond what is officially considered the level of force being used against him (or her). Neither may the individual attack or even warn off a burglar with any form of weapon. In 1987 John O’Connell, aged 40, a south London grocer, whose shop had been burgled seven times in just over a month, kept watch at night in his cellar and attacked the eighth burglar with a piece of lead piping which broke his jaw: the burglar spent two weeks in hospital. When he called the police Mr O’Connell himself was arrested and tried for grievous bodily harm! Fortunately the jury acquitted him, and it was reported that he had not been raided since (although neighbouring properties had been hit as hard as ever). What is instructive is what the burglar, who was given a sentence of 80 hours’ community service for four burglaries (in practice gardening and other activities many people do as a hobby), said after the trial:

“Good luck to him. I don’t blame him at all, but I just wish he had not hit me so hard. I know he had to protect his property, and I probably would have done the same thing in his position. This has certainly stopped me committing any more crime.”²

A burglar, in other words, accepts his victim’s right to self-defence far more than does the law of the land! If all victims of burglary and other crimes were legally allowed to defend themselves with effective weapons, including firearms, a large number of other criminals would be stopped from committing any more crimes.³

A recent Government Statistical Office survey reveals that the official clear-up rate for burglary throughout the country is 26.9%; robbery 20.9% and criminal damage 22.1%.⁴ This does not, of course, mean that the victim will get any of his property back, even if the case is solved, but demonstrates the low efficiency of the monopoly police service which the taxpayer is forced to pay for, and which will be used against him if he attempts to provide for his own protection. On 17 July 1989 Douglas Hurd, the Home Secretary, admitted that in the London area seven out of every ten reported crimes (outside certain “serious” categories) are ignored by the Metropolitan Police as a matter of policy, with “non-aggravated” burglary and car break-ins top of the list of offences to be ignored. The individual is, in short, unilaterally disarmed by law against potential attackers and robbers.

What is striking, in examining the history of weapons ownership control in England, is how recently this situation has developed, and what a striking departure from historical practice it represents.

THE HISTORY OF WEAPONS CONTROL

In examining the history of weapon controls in England, a distinction should be made between the private ownership of weapons by individuals, and the use of weapons by the militia system, which was the main method of law enforcement in England throughout most of its history. From Anglo-Saxon times onwards, individuals were enrolled in groups of about ten families called tythings, which were responsible for local law enforcement, and, where necessary, for the defence of the realm, as there was no police force or standing army. Every freeman had a duty to keep arms in order to carry out these functions. The Assize of Arms (1181) detailed the type of weapons to be kept by persons of various ranks. The Statute of Winchester (1285) commanded

“that every man have in his house Harness for to keep the Peace after the ancient Assize; that is to say every man between fifteen years of age and sixty years shall be assessed and sworn to armour according to the quality of their lands and goods.”⁵

The spread of firearms in the early 16th century, then regarded as inefficient novelties, caused concern about armed crime and the neglect of archery, and in 1541 Henry VIII forbade the use of “crossbows, handguns, hagbutts and demy-Hakes” by anybody with an income of under £100 a year. Even this latter class were to have handguns “not less than three quarters of one whole yard in length”.⁶ However, exceptions to this law permitted the use of such weapons by the inhabitants of towns “for shooting at butts or banks of earth” and by anyone to defend a house outside the limits of a town.

In 1671, in order to reserve game for the wealthy, Charles II enacted that any person without an annual income of over £100 (except those of or above the rank of esquire and owners and keepers of forests) were not allowed to keep any gun, bow, greyhound, setting dog or long dog. Neither of these laws, however, affected either the duty to keep arms under the militia system, or the right to private ownership of other weapons (principally pikes for the lower orders by 1671).

The Roman Catholic king, James II, however, violated these traditional rights, among others, by dismissing many Protestants from the militia and prohibiting them from owning weapons. When William of Orange overthrew James in 1688, parliament presented him with the Bill of Rights, which complained that James did “endeavour to subvert and extirpate the laws and liberties of the Kingdom” in thirteen ways; the sixth of these was that James had

“Caused several good subjects, being protestants, to be disarmed at the same time when papists were both armed and employed, contrary to law.”

Claiming that they were asserting no new rights, parliament declared “that the subjects which are protestants may have arms for their defence, suitable to their condition and as allowed by law”.⁷ The Bill, which was accepted into law by William and Mary, did not seek to disarm Roman Catholics, but to end discrimination against Protestants in arming themselves.

Sir William Blackstone’s *Commentaries on the Laws of England*, first published in 1765, is a study of common law rights and the (unwritten) constitution which is still regarded as the definitive statement of the common law at that time. Blackstone wrote:

“The fifth and last auxiliary right of the subject, that I shall mention at present, is that of having arms for their defence, suitable to their condition and degree, and such as are allowed by law. Which is also declared by the same Statute I W & M St 2 c2 and it is indeed a public allowance under due restrictions of the natural right of resistance and self preservation, when the sanctions of society and laws are found insufficient to restrain the violence of oppression ...

“And we have seen that these rights consist, primarily, in the free enjoyment of personal security, of personal liberty and of private property. So long as these rights remain inviolate, the subject is perfectly free; for every species of compulsive tyranny and oppression must act in opposition to one or other of these rights, having no other object upon which it can possibly be employed ... And, lastly, to vindicate these rights, when actually violated and attacked, the subjects of England are entitled, in the first place, to the regular administration and free course of justice in the courts of law; next to the right of petitioning the king and parliament for redress of grievances; and, lastly to the right of having and using arms for self preservation and defence. And all these rights and liberties it is our birthright to enjoy entire; unless where the laws of our country have laid them under necessary restraints; restraints in themselves so gentle and moderate, as will appear upon further enquiry, that no man of sense or probity would wish to see them slackened.”⁸

A comparison between this view and current official attitudes to the desire of individuals to provide for their own defence gives a good idea of the decline of liberty in this country over the past two centuries. The right to possess arms was vigorously defended and upheld by parliamentarians throughout the 19th century.

Following the industrial unrest of the 1810s, when the government believed a revolution was brewing, the repressive administration of Lord Liverpool introduced the Seizure of Arms Act 1820, which authorised a Justice of the Peace, on the oath of a credible witness, to issue a warrant to enter any place to search for

“Any pike, pike head or spear in the possession of any person or in any house or place; or any dirk, dagger, pistol or gun or other weapon which, for any purpose dangerous to the peace is in the possession of any person or in any house or place.”⁹

Weapons seized were to be detained unless the owner satisfied a JP that they were not kept for a purpose dangerous to the peace. Although the Act applied only to the industrial areas affected by disturbances (Lancashire, the West Riding of Yorkshire, Warwickshire, Staffordshire, Nottinghamshire, Cumberland, Westmoreland, Northumberland, Durham, Renfrewshire and Lanarkshire, and the cities of Newcastle-upon-Tyne, Nottingham and Coventry), and was limited to two years, several members of Parliament objected to the infringement of liberty the Bill entailed.

George Bennet protested that the distinctive difference between a free man and a slave was the right to possess arms, not so much to defend his property as his liberty. Neither could he do battle, if deprived of arms, in the hour of danger. T. W. Anson protested that the principles and temper of the Bill were

“so much at variance will the free spirit of our venerated constitution and so contrary to the undoubted right which the subjects of this country have ever possessed - the right of retaining arms for the defence of themselves, their families and properties that I cannot look upon it without loudly expressing my disapprobation and regret.”¹⁰

George Canning, a senior minister (and later Prime Minister) replied:

“I am perfectly willing to admit the right of the subject to hold arms according to the principles laid down by the Honourable and Learned Gentleman, having stated it on the authority of Mr Justice Blackstone. The doctrine so laid down, I am willing to admit, is no other than the doctrine of the British Constitution. The Bill of Rights, correctly quoted and properly construed, brings me to the construction of the Bill which, in fact, recognises the right of the subject to have arms, but qualifies that right in such a manner as the necessity of the case requires.”¹¹

The Gun Licences Act 1870 required that, with certain exceptions, any person carrying or using a gun elsewhere than in or within the curtilage of a dwelling-house should pay a revenue fee of 10 shillings. This was purely an excise measure, with no intent of controlling firearms: licences were available without question at any post office. Nonetheless, in committee P. A. Taylor condemned the Bill as “an attempt to bring our laws and customs into harmony those of the most despotic Continental Governments - it is an attempt to disarm the people!”¹²

It should be noted that during the 19th century, when British people were completely free to arm themselves, although the population grew to several times its original size (from 11 million in 1801 to 41 million in 1911), the crime rate fell not only in relative but also in absolute terms. Nonetheless, the final decades of the 19th century saw a marked increase in the control by the state over the life of the people in many fields, and demands were increasingly put forward for various measures of gun control. A leader in the *Daily Telegraph* of 5 November 1888, for instance, argued that

“We can conceive instances in which it is justifiable, or at least excusable, for civilians to have revolvers in their dwellings ... The carrying of a revolver on the person is quite another matter; and it is distinctly a cowardly, bloodthirsty, and un-English habit ...

“Let the proprietors of revolvers be registered and let no person be placed on the register until he can show his right to possess such a weapon, which should be numbered, and let infraction of the law be made a misdemeanour punishable by fine and imprisonment.”¹³

In this new mood, the government introduced the Pistols Bill 1893, which sought to impose restrictions on pistol sales and use, but the Bill was defeated. C. H. Hopwood objected that

“It attacked the natural right of everyone who desired to arm himself for his own protection, and not harm anyone else.”¹⁴

In 1895 a private member’s bill which sought similar restrictions was again defeated, the same Hopwood arguing that

“To say that because there were some persons who would make violent use of pistols, therefore the right of

purchase or possession by every Englishman should be taken away is monstrous.”¹⁵

Colin Greenwood, former Chief Inspector of the West Yorkshire Constabulary and now editor of *Guns Review*, in his definitive study *Firearms Control* summarises the legal situation with regard to firearms in 1900:

“England entered the twentieth century with no controls over the purchasing or keeping of any types of firearm, and the only measure which related to the carrying of guns was the Gun Licence Act, requiring the purchase of a ten shilling gun licence from a Post Office. Anyone, be he convicted criminal, lunatic, drunkard or child, could legally acquire any type of firearm and the presence of pistols and revolvers in households all over the country was fairly widespread ...

“... guns of every type were familiar instruments and ... anyone who felt the need or desire to own a gun could obtain one. The cheaper guns were very cheap and well within the reach of all but the very poor ... the right of the Englishman to keep arms for his own defence was still completely accepted and all attempts at placing this under restraint had failed.”¹⁶

GUN CONTROL IN OUR TIME

The Pistols Act 1903 introduced the first restriction on retail firearms sales, albeit an apparently mild one. It made unlawful the retail sale or hire of a pistol unless the purchaser either held a gun licence under the Gun Licences Act 1870, or proved that he was a householder seeking to use the pistol in, or within the curtilage of his own house, or produced a signed declaration from a magistrate or police inspector that he was about to go abroad for at least six months. More significantly, it was made unlawful for persons under 18 to buy, hire, use or carry a pistol, and for anyone to sell or deliver a pistol to a person under 18, or knowingly to sell a pistol to anyone intoxicated or of unsound mind. Also, retailers were required to maintain full records of all pistols sold, and show these on demand to a police or revenue officer. This could have little practical effect on retail sales to adults, as a gun licence was available on demand to anyone for 10 shillings, and no restriction was placed on private sales or gifts between individuals. Nonetheless it removed the freedom of a large group of British subjects - those under 18 - to arm themselves with pistols, and also subjected the right of everybody else under the control of statutory legislation, however apparently innocuous, for the first time. Although other firearms were not affected, this was a dangerous precedent, in that when, in a more intolerant atmosphere, the state sought further restrictions on firearms, and these were objected to, it could point to the existence of the Act as justification for the principle of further statutory controls.

Such an atmosphere emerged with the First World War and its revolutionary aftermath. In 1918 the Sub-committee on Arms Traffic saw the vast quantities of surplus weapons that would come onto international markets after the war as a possible threat to the British Empire, both from “Savage or semi-civilised tribesmen in outlying parts of the British Empire” and

“The anarchist or ‘intellectual’ malcontent of the great cities, whose weapon is the bomb and the automatic pistol. There is some force in the view that the latter will in future prove the more dangerous of the two.”¹⁷

It is important to stress that the government was not seeking to disarm the broad mass of responsible British people. Indeed, at the end of the war the government gave away nearly all its huge stockpile of captured German weapons to individuals who had contributed to the war savings scheme. Each person who had given a small amount received a rifle; those who had given more received a machine-gun; and those who have given particularly large donations were given a piece of German field artillery each!¹⁸

The Firearms Act 1920 introduced major firearms control for the first time in British history, although in theory it did not extinguish the right to keep arms to defend the person and household. Under Section 1, with certain exemptions, an individual could only purchase or possess a firearm or ammunition if he held a firearms certificate, valid for three years and renewable for three-year periods, which "shall be granted by the Chief Officer of Police" in the applicant's district, if the applicant had "good reason for requiring such a certificate"; could be permitted to possess, use and carry a firearm without endangering public safety; and on payment of a fee. The Chief Officer was to deny a certificate to anyone he considered "unfitted to be entrusted with firearms". The certificate, which was to be shown on demand to a police officer or magistrate, would list the number and nature of the firearms. Section 2 introduced the registration of firearms dealers; trade in firearms was restricted to those who registered with the local Chief Officer of Police; registration could be refused if the police believed the dealer "Could not be permitted to carry on business without danger to the public safety or the peace."¹⁹ It was made an offence to supply a firearm to persons under 14, persons drunk or of unsound mind, or certain convicted persons for specified periods. The Act also introduced the concept of "prohibited weapons", which means any "designed for the discharge of any noxious liquid, gas or other thing". (One result of this section of the Act is that anti-mugging aerosol cans which discharge CS or Mace gas in the face of an attacker without doing him permanent harm - and would thus be ideal for those who wish to defend themselves without risking killing anyone - are illegal.) In parliamentary discussion of the bill, Mr Kiley objected that a burglar seeking firearms could easily burgle a place where they were stocked and steal them wholesale.

"While it achieves no useful purpose, so far as I can see, it does interfere with legitimate traders. So far as burglars are concerned it will have no effect."

Only Lt-Commander Kenworthy objected on constitutional grounds, pointing out that there was

"... a much greater principle involved than the mere prevention of discharged prisoners having weapons. In the past one of the most jealously guarded rights of the English was that of carrying arms. For long our people fought with great tenacity for the right of carrying the weapon of the day, the sword, and it was only in recent times that it was given up. It has been a well known object of the Central Government of this Country to deprive the people of their weapons."²⁰

Nonetheless the Bill became law. It should be noted that the 1920 Act was never intended as a measure against the ordinary criminal use of firearms, and did not prevent it. Nonetheless, it was typical of the slap-dash and superficial treatment of British firearms legislation this century that in 1934 the Bodkin Committee assumed, presumably without

examining the background to the 1920 Act, that that had been its purpose, and regarded the well-publicised (though not much increased) criminal use of firearms as evidence that further restrictions were necessary. The Committee recommended, along with several minor changes, the classification of machine-guns as "prohibited weapons", and the law was updated in the Firearms Act 1937.

During the Second World War, the government, which was short of small arms, repeatedly appealed to the public to offer privately-owned firearms for sale, and thousands were bought in this way. At the end of the war, despite prohibition from military authorities, thousands of servicemen brought home weapons as souvenirs. In 1946, under a six-week amnesty (under which illegal weapons could be surrendered without fear of prosecution), 75,000 illegal weapons were handed in, including 59,000 pistols and 1,580 machine-guns. In October 1946 the Home Secretary went further than previous legislation in controlling private arms when he said:

"I would not regard the plea that a revolver is wanted for the protection of an applicant's person or property as necessarily justifying the issue of a firearm certificate."²¹

The legislation of the 1960s, which gave Britain the strictest firearms control in the western world, was in Greenwood's view the result partly of a political trade-off with the abolition of the death penalty, partly based on ignorance of facts and misinterpretation of data connected with firearms and crime. In 1965 the government was seeking to abolish the death penalty, a step strongly opposed by public opinion and many MPs. At that time, a number of well-publicised robberies and murders, committed with firearms, had taken place (although the statistical incidence of such offences was no higher than in the late 1940s). As a concession, in order to be seen to be "cracking down on crime" and thus obtain support for the Murder (Abolition of the Death Penalty) Bill, and also fearing an increase in armed crime after the passage of that Bill, the government very hastily introduced the Firearms Act. As well as minor further restrictions, this introduced the offence of carrying firearms with intent to commit an offence; further restricted carrying firearms in public; extended the powers of the police to require that weapons be handed over for inspection, search persons and vehicles suspected of carrying arms, and to arrest without warrant; and drastically increased the penalties provided in the 1937 Act. The police were empowered to impose conditions on registered firearms dealers, and for the first time those who dealt in shotguns were required to be registered, and to keep records of all transactions.

In an incident in August 1966 three policemen were murdered in London by a criminal gang using pistols. Massive protests from the public, the Police Federation and other bodies demanded the return of the death penalty for murder, arguing that the criminals would not have killed the officers if it was still in force. Roy Jenkins, the Home Secretary promised new restrictions on firearms in order to head off this pressure and avoid restoring the death penalty. In the important Criminal Justice Act 1967, which brought about a major overhaul of the criminal justice system, Mr Jenkins introduced, in Part V, a system in which, for the first time, persons had to obtain a licence before acquiring a shotgun. In the Lords discussion of the bill, Lord Mansfield described the first parts of the Bill as the "Criminal Justice (Encouragement of Evil-doers) Bill" and Part V as the "Criminal In-

justice (Harassment of Citizens) Bill". Lord Stonham, Under-Secretary of State at the Home Office, admitted that

"Of course a determined criminal can get one [a shotgun] illegally, as he can get a pistol despite the 1937 Firearms Regulations, stringent though they are. Of course he can; and this Bill will not stop a determined criminal from getting a shotgun."²²

Nonetheless the Bill became law, and all the legislation relating to firearms was amalgamated into the Firearms Act 1968. Even the more powerful air weapons were brought under firearms control legislation with the Firearms (Dangerous Air Weapons) Rules 1969, although there was not a single incident in which an air-gun had been used in a crime, making a mockery of the number of police man-hours required to process the paperwork relating to them.

In 1972, in the only academic study ever made of British firearms legislation and its effects, Greenwood showed that none of the legislation had been based on proper research, and that all if it had been a complete failure in controlling the criminal use of firearms, which had increased - often dramatically - after every act of firearms control.

"The use of firearms in crime was very much less when there were no controls of any sort and when anyone, convicted criminal or lunatic, could buy any type of firearm without restriction. Half a century of strict controls on pistols has ended, perversely, with a far greater use of this class of weapon in crime than ever before."²³

He compared the use of (strictly controlled) firearms with that of shotguns (uncontrolled until 1968) in robberies in the following tables and concluded that "despite the fact that they were unrestricted until 1968, shotguns were used in only a relatively low proportion in the periods immediately before and after the imposition of controls."²⁴ An armed robber's choice of weapon for any particular "job", in other words, is based on what he considers the most appropriate weapon, and not the legal restrictions on it.

On the elaborate licensing system established by the legislation, he concluded that

"The voluminous records so produced appear to serve no useful purpose. In none of the cases examined in this study was the existence of these records of any assistance in detecting a crime and no one questioned during the course of the study could offer any evidence to establish the value of the system of registering weapons ... it should surely be for the proponents of the system of registration to establish its value. If they fail to do so, the system should be abandoned."²⁷

THE HUNGERFORD MASSACRE

Nonetheless, Greenwood's conclusions had no apparent effect on official attitudes towards firearms legislation. In August 1987 Michael Ryan murdered 16 people and wounded another 14 in a few hours in the town of Hungerford with a legally-owned semi-automatic rifle, one of five legally-owned firearms he possessed (along with two illegally-owned, indeed "prohibited", sub-machine guns), before

Type of firearms used in robberies in England and Wales, 1966-9

Year	Shotguns		Pistols		Sawn-off shotguns (S1 firearm)		Others		Total No.
	No.	%	No.	%	No.	%	No.	%	
1966	53	15.5			18	5.2	269	79.3	340
1967	59	21.3	126	45.6	11	3.9	80	29.2	276
1968	98	25.3	140	36.1	37	9.5	112	29.1	387
1969	100	20.6	173	35.7	30	10.3	161	33.4	464

[From C. Greenwood, *Firearms Control*, Routledge and Kegan Paul, London, 1972, p. 244.]²⁵

Robberies in England and Wales in which firearms were used

Year	Total Firearms Robberies	Cases involving Pistols		Cases involving Shotguns	
		No.	%	No.	%
1970	475	163	34.3	88	18.5
1971	572	203	35.4	133	25.2
1972	533	175	32.8	116	21.7
1973	484	181	37.3	112	23.1
1974	645	258	40.0	129	20.0
1975	949	365	38.4	184	19.3

[Extracted from C. Greenwood, "Comparative Statistics", in D. B. Kates, *Restricting Handguns*, North River Press, np, 1979]²⁶

committing suicide. The government's response was to introduce still further restrictions with the Firearms (Amendment) Act 1988. An informed person, however, would make three observations about this appalling mass murder.

First, it was proof that the most restrictive system of firearms control and registration in the western world had failed *legally* to deprive of firearms exactly the sort of person it was supposed to deny them to, demonstrating the sheer futility of such restrictions. As the government's White Paper, published shortly after the massacre, admitted:

"... legislation cannot offer a guarantee against the repetition of the tragic events of Hungerford. It cannot eradicate entirely the possibility of the abuse of legitimately held firearms by an unstable or criminal individual."²⁷

Second, even if Ryan had been refused firearms certificates, or if there had been a total ban on the private ownership of firearms, he could still have carried out the massacre with the two sub-machine guns he owned, in spite of the fact that they were "prohibited weapons" and illegal for any private citizen to possess without written permission from the Home Secretary, which simply is not given.

Third, the restrictiveness of the system deterred the large majority of law-abiding citizens from seeking to obtain firearms certificates and thus be allowed to own and become proficient with firearms; a potential maniac like Ryan who would use guns for mass murder would persevere through the bureaucracy and obtain a certificate (or else buy from the huge illegal market in firearms). The result was that the people of Hungerford were unilaterally disarmed against Ryan, who could shoot them down at will.

Had there been a large proportion of law-abiding Hungerford people who owned guns and knew how to use them, they could have shot down Ryan at an early stage in his rampage. As it was, they had to wait until the police realised what was happening, obtained and deployed police marksmen, located Ryan and surrounded him - all of which took several hours in which lives could otherwise have been saved. This should be compared with a similar tragedy in a rural area in western France in July 1989, in which a man armed with a sporting rifle murdered 14 people, again without motive, before being brought down (but not killed) by police fire. The ownership and use of long guns is widespread in rural France, and a local man armed with a rifle succeeded in hitting and wounding the murderer during the rampage.

The British government, however, learnt none of these lessons. The Firearms (Amendment) Act 1988 simply introduced further restrictions along the lines of previous legislation. Along with other minor restrictions, semi-automatic weapons were classified as prohibited weapons, although for the first time compensation was paid to owners of them when they were surrendered: this category includes many pump-action and self-loading rifles, some models dating from 1882. The more powerful shotguns were brought to the same rigid level of control as pistols and rifles, requiring a firearms certificate. All shotguns had to be individually registered, ending the practice of holding several on one licence. The police were empowered to refuse a shotgun licence if they were not satisfied that the applicant had "good reason" for possessing a shotgun. The practice of converting a weapon to place it in a less strictly controlled category was outlawed. The penalties for violating the new

shotgun legislation were increased drastically. In 1975 Douglas Hurd, later Home Secretary, was fined £5 for possessing a shotgun without a certificate (he had forgotten to renew his certificate); under the 1988 Act the maximum possible penalty was increased to three years' imprisonment.

Such is the law as it stands at present, and it is interpreted in a strict manner by the police and Home Office authorities. It has been official Home Office policy continually to reduce the number of legally-owned firearms, and this is reflected in the number of certificates (on which details of each firearm, and purposes for which it may be used, are included) held by members of the public: in 1969 there were 216,281 firearms certificates held by private individuals; in 1986 the figure was 160,285. A less harsh view was taken of shotgun certificates during this period (before the 1988 Act): in 1969 637,108 people were licensed shotgun owners (i.e. permitted to own any number of shotguns); in 1986 there were 840,951. Virtually all these certificate holders are either members of gun clubs (for target shooting), people who engage in hunting game for sport, or farmers (for the control of vermin). Government and Home Office policy is that self-defence is not considered a good reason for requiring a firearm or shotgun certificate, although this is not written in any law, and is a purely bureaucratic decision. The attitude of the police has varied from one place to another, with some chief officers of police openly taking the view that the law should prohibit even sporting firearms. The following remarkable piece of logic is from Ken Sloan, legal editor of *Police Review*, in 1987, rather than a Chief Constable, but is not atypical of some of the opinions of the latter:

"My personal view of this is that anyone wishing to possess an automatic or semi-automatic weapon such as a Kalashnikov or M1 carbine, must be of unsound mind or unfitted to be entrusted with such a firearm."²⁹

How many firearms are in illegal ownership in Britain? In the *Police Review* of 7 January 1988, Michael Yardley, one of Britain's leading experts on firearms, estimated the figure at a remarkable 4 million.³⁰ Some indication of the size of the stockpile of illegally-owned weaponry is given by the number of firearms handed in during amnesties, in which the police encourage the public to hand in uncertified weapons for a period of several weeks, with no questions asked.

Firearms surrendered in England and Wales under amnesties since 1933³¹

1933	16,409
1935	8,469
1937	14,000
1946	76,000
1961	70,000
1965	41,000
1968	25,088
1988	42,725

These figures exclude rounds of ammunition surrendered (795,000 in 1968; 1.5 million in 1988), other "offensive weapons" (4,280 in 1988), and the substantial numbers of firearms handed in other than during amnesties; 58,006 firearms were handed to the Metropolitan Police alone from 1946 to 1969, for instance.³² In the 1965 amnesty a man in Royston, Hertfordshire, handed over an anti-tank gun, four service rifles, 12,000 rounds of ammunition, several live grenades and three booby traps.³³ In 1988 a man in Windsor

surrendered 88 boxes of ammunition, three machine-guns (one with tripod), four rifles, three revolvers, a flar pistol and an anti-aircraft gun.³⁴ (Weapons handed in during amnesties, except those of historical interest, are melted down.)

One must remember that only those law-abiding people who wish to divest themselves of their firearms would hand them in in this manner, and the number of firearms involved clearly shows that the supply is not drying up. Certainly criminals have no problem in acquiring firearms for robberies: from 1974 to 1984 the number of robberies using firearms in England and Wales rose from 650 to 2,098.³⁵ On 26 July 1989, Donald Kell aged 67, attempted to tackle two men, armed with a pistol, who had just robbed a security van, and was shot dead.³⁶ Firearms control has kept guns out of the hands of people like Mr Kell, while failing to keep them from his murderers. As Greenwood comments:

“Criminals have proved to us that firearms controls will not deny their small class of people access to firearms whenever they want them, but even if it were possible to deny them guns, little would have been achieved if they simply turned to other weapons such as coshes, ammonia sprays and the like which, in fact, cause more injuries than firearms.”³⁷

Gun control has, in short, been a complete failure in terms of the objectives which people normally associate with it. It has succeeded in giving a virtual monopoly of privately-owned guns to professional criminals and those otherwise law-abiding individuals who own illegal firearms, the number of who can only be guessed at. Let us now propose positive arguments against firearms control and for the legal right of the individual to possess firearms and other weapons for his or her own protection.

TAKING THE LAW INTO OUR OWN HANDS

Generally speaking, most people would pay at least lip service to opposition to slavery, in that they would defend the right of the individual to the ownership and control of his or her own mind and body. It follows therefore that the individual also owns the products of his own mind or body, which he or she is free to use, exchange, sell or give as he or she wishes. This is the fundamental justification for property rights, which are absolute in the sense that nobody has any right to use violence against anybody else to violate that person's rights. Within this context of non-coercion, the individual is free to obtain whatever items of property he or she chooses without interference from others, and this includes all forms of weapons. Following from the above principles, an individual also has the right to use force to defend his or her self or property, or someone else's self or property, when they are subjected to coercive force. No individual has the right to initiate force against anybody else or his or her property.

The state, however, makes the claim that we should depend exclusively on the power of the law and the state monopoly of policing for our protection, and have no right to “take the law into our own hands”. Yet the police and the criminal courts spend a large proportion of their time pursuing people who have violated no property rights, and as we saw above, only a small proportion of crimes against the individual and property are solved. Quite large numbers of people, usually on low incomes, do not pay their television licence fees; when they are caught watching without a licence they are

charged and fined; unable to keep up the payments on the fine, a total of about 600 a year are imprisoned for defaulting on fines. Yet violent criminals who have viciously beaten their victims are routinely given a suspended sentence, which means no real punishment at all. It is hardly surprising that violent crime is rising and getting nastier. In the past, the violent criminal was generally satisfied with using force sufficient to get what he wanted; today, horrifying stories about gratuitous torture, beating, mutilation and rape of robbery victims, evidently for fun rather than gain, are routine newspaper reading. Knowing their victims to be unilaterally disarmed, such is the contempt these people hold for their victims that they treat them in this manner. I submit that the widespread ownership of firearms among ordinary people would drastically reduce these assaults. In a study of criminals in US prisons, three-fifths said that a criminal would not attack a potential victim known to be armed; two-fifths had decided not to commit a crime because they thought the victim might have a gun.³⁸ In 1982 the small town of Kennesaw, Georgia, USA, passed a law making it *compulsory* for householders to keep a firearm and ammunition on the premises; house burglaries fell from 65 per year to 26, and to 11 the following year.³⁹ Of course, the libertarian would not support such a coercive measure any more than he would, for example, force children to go to school, but the lesson stands. If even a small number of victims shot and killed their attackers, it is reasonable to assume that the message would get to the other criminals and violent crime would drop. For this to happen, though, the legal right to use force - if necessary lethal - in self-defence would have to be enshrined in law.

But actual crimes of violence are only the tip of the iceberg. “Kill one, frighten ten thousand.” For every burglary, robbery, mugging, rape or other assault, many individuals are frightened to go out at night, some even by day, and often feel fear even in their own homes. This is particularly true of those groups with the smallest degree of real power in our society: old people, people on low incomes, “working class” women, residents of council estates, and non-whites. While there is never any shortage of hot air merchants in parliament, pressure groups, local government and the bureaucracy, who are quick to sound off on behalf of these “underprivileged” people, these latter always make proposals which will enhance their own power, and avoid the issues which really concern those whom they claim to represent, of which violent crime is the most important. It is hardly surprising that the police, short of manpower and resources and often not wishing to strain “community relations” are quicker to respond to complaints by the better-off, who can kick up a more effective fuss if they are dissatisfied with the police, than to those of the lower orders, who are generally cut off from political influence. (It is worth pointing out here that some elements of the left have in the past had more wisdom on the subject than others. The Banner of the London School of Economics students' union, made in the 1960s, and still carried on demonstrations, carries the bold legend “ARM THE WORKERS AND STUDENTS”. One can only agree.)

GUN CONTROL BY THE STATE, FOR THE STATE

But it is not just the private criminal from whom the ordinary citizen needs the right to protection. Even more important is self-defence against the state and its actual or potential violence. Throughout the world, tyranny is more common than freedom. In our century, tens of millions of

human beings have been murdered by oppressive regimes which believed that their victims stood in the way of creating some utopia or other by violence. Hundreds of millions - if not billions - more have had to live under totalitarian tyrannies, deprived of the most basic freedoms that we in Britain take for granted. In every case, the one distinctive difference between the agents of the regime and their victims was the fact that the former had a monopoly of weapons. Before coming to power, Adolf Hitler wrote:

“The most foolish mistake we could possibly make would be to allow the subject races to possess arms. History shows that all conquerors who have allowed their subject races to carry arms have prepared their own downfall by doing so.”⁴⁰

In 1937 the Nazi regime introduced a Firearms Act which stipulated that no civilian was to have a firearm without a permit, which would not, according to a contemporary commentary, be issued to those “suspected of acting against the state. For Jews this permission will not be granted. Those people who do not require permission to purchase or carry weapons [include] the whole S.S. and S.A., including the Death’s Head group” and Hitler Youth Officers.⁴¹

Would it not have been better if the Jewish and other victims of the Nazis had been armed and able to resist being dragged to concentration camps? The fact that the victims could not effectively resist and overthrow these regimes made mass murder and tyranny possible. Dictators as diverse as Ferdinand Marcos, Fidel Castro, Idi Amin and the Bulgarian communists have ordered firearms confiscations immediately on taking power, for good reasons. The current suppression of the democracy movement in China, for instance, would be impossible without a state monopoly on weapons.

Totalitarian regimes know that disarming the people must be an early step in consolidating their tyranny. In the early days of communist rule in both Russia and China, the private ownership of firearms was prohibited, and spies and informers in the villages were rewarded for revealing the names of those who defied the regime’s decrees. These measures were preludes to the seizure of the peasants’ land in both countries, accompanied by the extermination by artificial famine of millions, along with the deportation to slave-labour camps of millions more who attempted to resist.

Such events seem, thankfully, to be a remote possibility in Britain today, but how do we know what might happen a hundred, two hundred or five hundred years in the future? Might the British people one day face a situation where they have to use force to resist a domestic tyranny? Indeed, it makes a decisive difference in the relationship between the state and the people if the latter is known to be armed. The fact that the people are armed creates a “bottom line” of oppression below which the government may be resisted, if all else fails, by force. If the people cannot defend their rights directly, then any freedoms they are permitted by the state are, strictly speaking, temporary privileges which can in practice be removed by the one institution which has a monopoly of legal violence in society. Soon after the Hungerford massacre, one regional English Chief Constable publicly urged that it be made illegal for members of the public to own bullet-proof vests and similar equipment, so that it will be easier for the police to shoot them! He was, of course, talking in reference to events like Hungerford, but the totalitarian implications are obvious. Any political auth-

ority seeking to remove basic human rights will tread very warily if it knows its subjects to be armed. In its measures it will always seek to err on the side of caution, not wishing to provoke resistance. A disarmed people, however, is ultimately at the mercy of those in power, dependent on their goodwill for their own survival.

Some indication of the degree of totalitarian pressure that can already be applied in our supposedly free society was given by the notorious events in Cleveland, County Durham, in 1987. Certain paediatricians working for the Cleveland Social Services Department (who happened, not coincidentally, to be socialists) engaged in a piece of empire-building by alleging that an epidemic of child sexual abuse was taking place in Cleveland. As a result hundreds of children were - apparently at random - forcibly taken away from their parents, and a totalitarian atmosphere imposed on the town. With none of the normal protections of the law, such as the presumption of innocence, parents were accused of abusing their own children, and attempts were made to blackmail them into confessing. Attempts were also made to threaten and trick the kidnapped children into denouncing their parents. As a result of the trauma involved, many parents had nervous breakdowns, others split up, and others attempted suicide. After several months, the scandal was exposed, the children returned and the whole exercise proved to be completely fraudulent, although the psychological damage had been done.

It is here that the private ownership of firearms for self-defence becomes relevant. Hundreds of innocent parents had to undergo the smarting humiliation and shame of their own children being kidnapped from them and turned against them by individuals whose salaries they - the parents - were paying through taxes on their earnings. One just has to imagine the ordeal of neighbours, colleagues, relatives and friends knowing about the appalling accusations made against these parents, and perhaps wondering for years afterwards if there might have been something in it. Had the falsely accused parents, however, been armed, and had the legal right to defend their children against kidnapping by anybody, regardless of whether the latter were state employees or not (after it was established in court that the intervention was groundless), I submit that the bureaucrats would have kept their ghastly fantasies to themselves. If they had been so foolhardy as to proceed under these circumstances, they would have done so entirely at their own risk.

Many people are horrified at the idea that the individual should resist the intervention of the state by force, even in cases such as the Cleveland outrage. Yet most of the people who express this horror are more sympathetic to the right of parents to resist kidnapers who seize children for their own private gain. There is surely little moral difference between the two; indeed, the professional kidnapper is arguably preferable: he acts purely selfishly, and wants nothing more than the money he can extract from the parents, at which point he has no reason not to return the child. The “altruistic” Cleveland paediatricians had little interest in personal financial gain, and, probably convinced of the righteousness of what they were doing, were prepared to use the coercive power of the state to destroy families and reduce their victims to nervous wrecks in order to enhance their power. Why is it less moral for the individual to resist the latter than the former? And why should the law deny him or her the means to do so?

INTERNATIONAL AND REGIONAL COMPARISONS

A comparison of international and regional policies on firearms control gives no evidence to suggest that legal restrictions on firearms have any effect in reducing either crime, or the criminal use of firearms, while by definition prohibiting or restricting the ownership of firearms by law-abiding citizens. Within the UK, the Channel Islands, with their wide degree of self-government, have very moderate gun controls, and the private ownership of firearms, including sub-machine guns and other automatic weapons, is widespread. It also has a very low rate of violent crime, and the use of firearms in crime is negligible compared to the mainland. In Northern Ireland, on the other hand, and also in the Irish Republic, gun controls even more draconian than those on the mainland have been imposed as a result of the terrorist situation there, and even air pistols and rifles are subject to the most severe controls. Yet the IRA and other terrorist groups have no difficulty in obtaining effective military weapons, whether from abroad or on the black market, only in finding the men to use them. No comment is needed on the murder rate using firearms in Northern Ireland. Indeed, individuals in the province, whether Protestant or Roman Catholic, are at much greater risk of being murdered in "retaliation" attacks, in which a paramilitary group will target a law-abiding person of the other religion virtually at random, than people on the mainland. Their need for personal protection is much greater, and one can envisage that if a few cases took place in which terrorist gunmen were shot by their civilian victims, the deterrent effect would be enough substantially to reduce the terrorism in the province.

Switzerland has the highest level of private firearms ownership in the world, with pistols freely purchasable by adults from gunshops on presentation of a permit obtainable as easily as a television licence here. Retail sales of rifles and shotguns, and private sales of pistols between individuals are completely unregulated. Despite, or rather because of, the fact that several firearms are held in almost every home, the criminal use of firearms is so low that it is not even recorded separately in police statistics.⁴² Denmark has a similarly high rate of firearms ownership, with small-calibre guns completely unregulated and an easily-obtained permit needed for larger ones. In Belgium private citizens can buy hunting and sporting guns with a readily-granted permit, with a stricter licensing system for more powerful guns. West Germany and France have found strict gun controls, introduced as a response to terrorism, impossible to enforce. In 1973, following the Baader-Meinhof, Middle Eastern and other terrorist campaigns, the West German government imposed severe firearms control, including registration of all guns.⁴³ In 1973 there were between 17 and 20 million privately-owned guns in West Germany; by 1976 only 3.2 million had been registered. Over 80% of firearms in West Germany are illegally held, the large majority by otherwise law-abiding people who have been criminalised by this action, and a series of police raids to find them has, fortunately, been a failure.⁴⁴ The French government introduced strict gun control in 1983 after violence inside France by Middle Eastern terrorists; again, the laws have been defied on a massive scale by French people who do not regard their freedoms as subject to bureaucratic removal as a result of somebody else's terrorism.⁴⁵

It is well-known that Malaysia has the death penalty for drug traffickers; the same penalty exists for illegal firearms ownership. Recently a Thai salesman visiting Malaysia was

found with a .22 calibre pistol and ammunition: simply for possessing these, he was hanged. So much for the argument that strict gun control prevents unnecessary deaths!

Japan has much stricter gun control than most parts of the USA, yet Japanese-Americans, who have much easier access to firearms, have much lower violence rates than Japanese in Japan. Mexico has more restrictive gun control than the USA, and also a much higher murder and armed crime rate. In Taiwan, like Malaysia, the death penalty can be imposed for illegal ownership of guns, and gun control is stricter than Japan. Yet the murder rate in Taiwan is four times higher than that of Japan, and 30% higher than in the USA. South Africa has much stricter firearms control than the USA, yet has twice the murder rate.⁴⁶

Before independence in 1962, Jamaica had a tolerable level of crime, and permitted private ownership of guns, subject to having a police permit. From 1962 to 1973 the homicide rate rose by 450% and violent crimes, including armed robberies, rose even more sharply. In 1973 (after an incident in which four businessmen were murdered by shooting) a total ban on the private ownership of all types of guns and ammunition was imposed. Police seized all legal firearms and were given the power to search any vehicle or house they believed to contain guns or ammunition, arresting without warrant any violators. These were taken to a "gun court", with no bail allowed, and, after a delay of perhaps weeks, arraigned in secret courts without representation, and those convicted were imprisoned in a "gun stockade" for an indeterminate period. For three months after the introduction of this system the rate of armed crime dropped, and then it grew completely out of control. Any political activity was accompanied by armed men roaming the streets, and armed troops had to preserve order during elections. Murders by shooting, armed robberies and other crimes set new world records, and spread throughout society. Later the Commissioner of Corrections admitted that the ban had not affected the hard core criminals, and the worst excesses of the system were corrected.⁴⁷

The example of the USA is usually cited in arguments against the relaxation of British firearms control. It is alleged that the high rate of murder and other violent crimes in the USA is caused by the wide legal availability of firearms, and this would occur in Britain if firearms controls were removed. Many anecdotes, perhaps true, perhaps apocryphal, are put forward to support this proposition: a man in Kentucky shot his brother for using too much toilet paper; a dispute between two men in a New York City cinema over who would have the last bag of popcorn became a gunfight in which one of them was shot dead. The defence by many Americans of the Second Amendment to the US Constitution, which guarantees the right to keep and bear arms, is cited with feigned horror by some British observers, who are ignorant of the fact that this was a fundamental principle of English law which was carried over from the unwritten British constitution, and which, as it has never been formally removed by parliament, and no court has ever ruled that it no longer exists, can be still said, legally speaking, to exist in England.

In the first place, the US has over 20,000 laws at Federal, state and local level which restrict firearms ownership and use. The cities with the highest levels of violence and criminal use of firearms, including New York City, Washington DC, Detroit and Chicago, have gun control even stricter than that of the UK. 20% of murders in the USA take place in

these cities, which have only 6% of the population. Firearms bans are widely defied in cities where in some areas the police are effectively losing control of the streets. New York City, for instance, has had a virtual ban on handguns since the 1911 Sullivan Act, yet has an estimated 2 million illegal pistols (including those used in the anecdote mentioned above). If it is replied that guns can easily be brought in illegally from other states with less gun control, one can reply that surely the same would be true of, for instance, Minneapolis, which has no gun ban and a murder rate of 2.9 per 100,000, compared to 17.5 in New York. As in Britain, no correlation has ever been shown between the legal availability of firearms and armed crime.⁴⁸ The fact is that the USA has a higher rate of murder without firearms (i.e. using knives, poisons, blunt instruments, etc.) than any western European country: quite apart from the huge illegal markets in guns, murderers could simply substitute other weapons if guns were further restricted, while knowing that their victims would be disarmed. It is in the USA, more than any other country, that firearms control is a hotly-contested political issue, and the media, the bureaucracy, academia and most politicians are almost unanimous in seeking to disarm law-abiding citizens, who have had to fight a defensive political action against repressive legislation seeking to remove their freedom. The Bureau of Tobacco, Alcohol and Firearms uses every possible legal and illegal device to make life difficult for law-abiding American gun owners. Only one side of this debate - no need to say which one - ever gets heard in the British media.

NATIONAL DEFENCE

The private ownership and civilian use of firearms can also play an important role in defence. The best known example is that of Switzerland, where every adult male is required to be a member of the militia (which numbers 625,000), to store a fully-automatic rifle and ammunition at home and to practise with it regularly. Separately from these government weapons, Switzerland has the world's highest level of private firearms ownership. Firearms, including semi-automatic rifles, can be bought freely from gunshops on presentation of a purchase permit which is issued without question to any adult (except those with certain criminal convictions or records of mental instability). Yet armed crime is negligible: firearms homicides have not increased since records began in 1931, and armed robberies are so few that they are not even recorded separately.

Denmark is second only to Switzerland in its level of private firearms ownership, and considerably ahead of the USA. It has a Home Guard of 75,200 the members of which store semi-automatic rifles and sub-machine guns at home and can be mobilised in one hour. In 25 years, only 13 homicides have been attributed to the 60,000 of these Home Guard weapons. Norway and Sweden also have Home Guards which store military weapons and ammunition at home: the misuse of these weapons is almost non-existent. The US government's Directorate of Civilian Marksmanship has sponsored civilian military arms to rifle clubs and semi-automatic rifles to individuals. In 1965, the Little Report, sponsored by the US Department of the Army, "failed to uncover a single incident where DCM arms have been used in crimes of violence".⁴⁹

Before its present official attitudes to civilian firearms use developed, Britain used to have a similar system. From 1859 until the end of the First World War the government

kept a quarter of a million Rifle Volunteers under arms; in 1900 Lord Salisbury, the Prime Minister, said that he would laud the day when there was a rifle in every cottage in England.⁵⁰ Our present system, in which nearly all peaceful citizens are both disarmed and ignorant about firearms as a result of government policy, would lead to a disastrous situation if Britain should ever be faced with invasion. The people would be virtually incapable of organising effective guerrilla resistance to an invader, or of providing auxiliary forces to the regular army, because of the resources and time needed to train people in the use of weapons, quite apart from the availability of these weapons themselves. Should the regular military forces be defeated, the people would be completely at the mercy of an invader.

(One of the most fraudulent aspects of the position of the Campaign for Nuclear Disarmament is their claim that they support the possibility of guerrilla warfare as a major aspect of Britain's defence after the unilateral nuclear disarmament and withdrawal from NATO which they propose. I have often discussed the issue with CND supporters, and when I press for details of how this guerrilla force is to be organised, these are either vague or non-existent. When I ask whether they would encourage the widespread civilian ownership and use of military firearms, and the training of individuals in guerrilla warfare by official and private sponsorship, they react in a hostile manner to the very proposals they were arguing for - in a vague and offhand way - only minutes before!)

The private ownership of firearms by civilians can be remarkably effective in resisting even a modern technological invader. For centuries the Afghans and Pakistanis have been skilled both with using firearms and making copies of standard models in primitive workshops with simple tools and materials. When the Soviet Union invaded Afghanistan in 1979, the Afghans, despite their enormous technological inferiority, were able to offer immediate effective resistance and quickly developed rifles that could fire the same ammunition as the Soviet AK47. While their eventual success in forcing the Soviet forces to withdraw was due to the later availability of sophisticated modern weapons such as the Stinger missile, this would have been impossible without the early stages of military resistance made possible by the widespread knowledge and ownership of firearms.

WOMEN AND GUNS

"Be not afraid of man,
No matter what his size;
When danger threatens, call on me
And I will equalise."

(motto engraved on a 19th century Winchester rifle)⁵¹

Although capitalism has succeeded in giving women throughout society a wide degree of independence, for example through labour-saving devices, it cannot alter the biological fact that the average man is some 50% physically stronger than the average woman, nor that the average attacker, burglar or rapist is probably rather stronger than this average. And there is no doubt that the threat of attack is very real in Britain today, and poses a major restriction on the effective freedom which women enjoy.

But women are not permitted to take any measures for their own protection. In 1981 in Yorkshire, at the height of the murderous rampage of Peter Sutcliffe through the county

(that is, before he had been caught), one woman who carried a small clasp knife in her handbag as a protection against the "Yorkshire Ripper" was convicted and fined for carrying an offensive weapon!

This situation could be transformed by the introduction of the legal right to own and use firearms and other weapons for self-defence. The possession of firearms by women would provide a virtual revolution in introducing real equality between the sexes in this area. In 1966, following a major increase in rapes in Orlando, Florida, USA, the local police began a well-publicised training course for 2,500 women in firearms. The next year rape fell by 88% in Orlando (the only large American city to experience a decrease that year) and burglary fell by 25%, although none of the trained women actually fired their weapons: the deterrent effect was enough. Five years later Orlando's rape rate was still 13% lower than it had been before the training, while the surrounding standard metropolitan area had undergone a 308% increase.⁵²

If the authorities here are unlikely to take such an enlightened attitude, at least they can remove the legal impediments for groups of women, private entrepreneurs, or others to organise such training, and for the purchase of weapons to supplement it. If they refuse to do so, at least victims of assault, robbery and rape will know who is partly to blame through the denial of the legal means of self-defence.

Indeed, if the authorities would hesitate immediately to abolish all laws restricting the ownership of weapons, a more "Fabian" approach suggests itself. On a provisional basis, the legal right to possess firearms and other weapons could be given to one group which even the authorities must agree is both particularly vulnerable and particularly unlikely to use weapons for criminal purposes: old age pensioners. If after, say, two years, this resulted (as the reader will agree it doubtless would) in a decrease in the number of attacks on pensioners, the same right could then be extended to all women. Again, if after a two year experimental period attacks on women were reduced, the political atmosphere would surely be improved for the restoration of everyone's right to provide for their own defence.

THE GUN CONTROL DEBATE NOW

British firearms legislation, then, has not been based on either reason or evidence. So how have such strict controls, which have effectively removed what was once regarded as a fundamental right of every individual, achieved the status of law with the almost unanimous approval of all major political parties, the police, the media and (taking their cue from them) public opinion? This is not an area which can be addressed with anything like scientific precision, but I believe it can be largely summed up, first, by a 20th-century official British attitude one might describe as "political fetishism". Britain has for centuries been, on the whole, a "law-abiding" and deferential country in the sense that the bulk of the population will go along with virtually anything the authorities demand; many, indeed, will go beyond that. This therefore creates in the authorities a fallacious assumption that the act of removing or restricting by law an object, or tool, that is used for something they disapprove of, will of itself remove the intention of and ability to perform the unapproved act. Even if only a small minority are committing the unapproved act, the large majority must be punished in advance for the actions of the few - must, in short, be punished for doing something that they as individuals have not

done. That this is a peculiarly British attitude is demonstrated by a comparison with France.

France is by no means a free country - the absence of individual civil rights against the police and the criminal justice system would rightly appall any informed Englishman, as would the bureaucratic interference which, for instance, requires parents to name their children only from a state list of approved names - but this "fetishistic" attitude is largely absent. There is a liquid which can be used to remove the ink stamps on official documents, season tickets, and so on, without damaging the design of the paper underneath. Freely available at any stationers' in France, it is banned in Britain. In Britain, the taxation on alcoholic drink is continually increased to discourage its consumption, and the hours at which it can be bought still restricted, yet the incidence of drunken violence continues to rise, a phenomenon almost unknown in France, where alcoholic drinks are much cheaper (and which has diminished drastically in Scotland, where licensing hours are almost unrestricted). Again, France has no film censorship and most television channels regularly show "pornographic" material that would be unthinkable on British television, yet the believed link between pornography and sexual crimes, taken for granted here, hardly exists in France (which has a much lower rate of sexual crime): at rape trials in Britain, for instance, the defendant usually attributes partial blame to having seen a pornographic film; this is a rare defence in French rape trials. This sharp difference is clearly visible in weapon control. In any knife shops in France, the visitor can find freely available for sale all manner of "offensive weapons" that it is a criminal offence to buy or possess in Britain, from flick-knives (known as switchblades in America, where they are banned in every state but Oregon) to Mace and nunchakas and other Kung Fu weapons. Yet France has a rather lower rate of violent crime than Britain.

Another broad characteristic, specific to British socialism since at least the First World War, is a belief that the common people whom socialism was supposed to help were purely an object, not a subject. The experience of the "working class" under capitalism, as (incorrectly) interpreted by the early 20th-century socialists, led them to believe that they were not capable of spontaneously organising themselves, and had to have their lives completely reorganised for them by bureaucrats and "experts". The "slums" in which the working class lived could not be improved and had to be destroyed and replaced by high-rise, concrete-jungle council estates. The masses were incapable of acting as informed customers in health, education and welfare, and the "welfare state" therefore gave very little individual choice or control to the people who were made dependent on it and whose taxes financed most of it.

It is this general attitude, now recognised as disastrous in so many areas (surviving 19th-century "slum" houses in east London are selling for £200,000 long after high-rise blocks from the 1960s have either collapsed or been demolished), which has helped to introduce such harsh firearms control in Britain. In his excellent Libertarian Alliance essay *Gun Control in Britain* (1988), Sean Gabb, after demonstrating the absurdities of firearms restrictions, concluded on a pessimistic note:

"The Firearms Bill will become law, and after a decent interval will be followed by another, and then by another, until guns are in theory 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 consequences will be felt by a later generation than our own.”⁵³

Surely, however, one cannot allow such ill-informed, ill-thought out, irrational, repressive and unjust laws to continue to oppress the people without challenge. History provides many examples of repressive state actions, such as the witch mania of the 16th and 17th centuries, which commanded general approval in spite of their appalling consequences. They should always be opposed, however difficult the odds may seem to be.

Firearms control in Britain is one of those areas where a rigidly statist regime has been introduced which has become almost universal orthodoxy without being introduced on behalf of some ideology or other. As we saw above, firearms legislation was introduced on the basis of unclear thinking, ignorance about the purposes and results of previous legislation, political trade-offs and temporary hysteria. It is precisely for this reason that it is a difficult area to reform. With other areas of statism, such as the nationalisation of industries, or the development of council estates in the form they took, the measures were carried out in accordance with a specific ideology and with specific ends in mind, such as to make industry more efficient and accountable, or to create an ideal urban living environment. At least when the measures fail to produce the ends for which they were introduced, this can be demonstrated, and the policies altered, as has happened to some extent in recent years. With firearms control, however, no such objective standards by which it can be judged were ever proposed, yet firearms control commands more general political support than nationalisation or council estates ever did.

It also encourages the most officious and bloody-minded forms of policing, which undermine civil liberties. Several years ago a 16-year-old boy who habitually dressed in top hat and tails and carried a long walking cane with a large spherical handle was, as I remember reading, arrested by the police and charged with “carrying an offensive weapon”. On 30 June 1989 Robert Manning, aged 31, was lawfully shooting pigeons with a shotgun in a field near Coventry when he saw a police helicopter overhead, which contained three policemen, one of them filming him with a video camera. He put the gun down and made querying gestures to the policemen, who told him through a loudhailer to walk to a clearing, remove his jacket and shirt and turn round. He did this, and found himself facing 20 to 25 policemen with police dogs and two with Armalite rifles. One of them told him to march towards them and lie down, whereupon they handcuffed him and removed his boots. The helicopter landed, and he was taken in it to a police cell despite explaining what he had been doing. The police contacted the farmer who owned the field and confirmed that Mr Manning had had permission to shoot there. The police then allowed Mr Manning to leave the station, but refused to return his shotgun, even though he was licensed and had not used it unlawfully. He refused to leave, and returned to the cells until the police finally agreed to let him take the gun.⁵⁴

It might be objected that if the right of the individual to own weapons is conceded, where does it stop? Are we to accept the right of individuals to have private armies, for example? I would reply that it does indeed follow, while accepting that in tactical political terms the climate is not yet right to put

that forward as an immediate demand. Those who express horror at the idea of private armies seem unaware that there already is a legal standing private army, fully equipped and trained as a fighting force with sophisticated, modern weapons and other equipment. Comparatively small though it is, it belongs to the Duke of Argyll, who is the only individual in the United Kingdom legally allowed to keep a private army (the privilege was granted by the Crown to one of his ancestors). Yet I have never heard any report of this army creating any kind of danger to the public peace, or indeed, of anybody making any political objection to it. Given that His Grace’s right to maintain an army is given such universal acceptance, if only by default, one could envisage a “Fabian” political process whereby it is extended, over a period of years, first, to all hereditary peers above the rank of baronet, then to the lesser aristocracy, and finally to us common folks, in a process analogous to the progress of the 19th-century Reform Acts and subsequent legislation extending the franchise.

LET US ASK THE QUESTION

That, I accept, lies in the future. But right now the newspapers are full of tragedies in which the availability of a firearm would have saved lives or enabled people to defend themselves. In two cases in 1989 families living on crime-ridden council estates have been burned to death because they have installed such heavy security, including locked steel bars at the windows and multiple-locked steel doors, that they were unable to escape from their own homes when fires broke out. If they have been allowed to possess firearms for the defence of their home from burglars and attackers, such precautions would have been less necessary. Not content with herding people into the violent, inhuman environments of so many council estates, the state removes even their right to defend themselves with weapons against the crime it has exposed them to. Every week, many shocking cases of violent crime are reported, but I was particularly appalled by a recent case in which three men broke into the home of a 54-year-old Cypriot woman in south London, trying to obtain her life savings of £900, which were hidden in her brassiere. They tortured her for several hours in the most horrifying ways, one of which was thrusting an air pistol up her nostril and firing it, as a result of which she lost the sight of one eye. Nonetheless she never revealed the location of the money, which was all she had in the world. It was reported that the police had no clue as to the attackers’ identity.

Who could doubt that the outcome would have been different if the victim herself had been armed - with a firearm? By what right do those who make our laws deny such people as this woman the natural right to self-defence? Let us ask this question of our political masters, and put the onus on them to explain why they are denying us the most fundamental human right of all, without which any others are not rights at all but merely temporary privileges granted by the powerful on their sufferance and removeable at will - the right of the individual to arm against all aggression.

NOTES

1. W. Marina, "Weapons, Technology and Legitimacy", in D. B. Kates, *Firearms and Violence*, Pacific Institute for Public Policy Research, San Francisco, 1984, p. 429.
2. *Daily Telegraph*, 7 April 1987.
3. See D. B. Kopel, "Trust the People", Cato Institute Policy Analysis 109, 11 July 1988.
4. *Evening Standard*, 10 July 1989.
5. C. Greenwood, *Firearms Control*, Routledge and Kegan Paul, London, 1972, p. 7.
6. *Ibid.*, p. 9.
7. *Ibid.*, p. 11.
8. *Ibid.*, p. 13.
9. *Ibid.*, p. 14.
10. *Ibid.*, p. 15.
11. *Ibid.*, p. 15.
12. *Ibid.*, p. 16.
13. *Daily Telegraph*, 5 November 1988.
14. Greenwood, *op. cit.*, p. 23.
15. *Ibid.*, p. 25.
16. *Ibid.*, p. 25-26.
17. *Ibid.*, p. 38.
18. *Times*, 15 September 1988.
19. Greenwood, *op. cit.*, p. 46.
20. *Ibid.*, p. 54.
21. *Ibid.*, p. 72.
22. *Ibid.*, p. 86-87.
23. *Ibid.*, p. 243.
24. *Ibid.*, p. 243-244.
25. *Ibid.*, p. 244.
26. Extracted from C. Greenwood, "Comparative Statistics", in Don B. Kates, ed., *Restricting Handguns: The Liberal Skeptics Speak Out*, North River Press, np, 1979, p. 54.
27. Greenwood, *Firearms Control*, *op. cit.*, p. 246.
28. T. Jackson, *Legitimate Pursuit*, Ashford Press, Southampton, 1988.
29. *Times*, 26 August 1987.
30. *Times*, 7 January 1988.
31. Combined from data in Greenwood, *Firearms Control*, *op. cit.*, p. 235, 236 and *Times*, 3 November 1988.
32. Greenwood, *Firearms Control*, *op. cit.*, p. 237.
33. M. Bateman, *This England*, Penguin, London, 1969, p. 112.
34. *Times*, 15 September 1988
35. Jackson, *op. cit.*, p. 45.
36. *Daily Telegraph*, 27 July 1989, p. 1.
37. Greenwood, *Firearms Control*, *op. cit.*, p. 173.
38. Kopel, *op. cit.*, p. 2-3.
39. *Ibid.*, p. 3.
40. Quoted in Kates, *Restricting Handguns*, *op. cit.*, p. 185.
41. *Ibid.*, p. 185.
42. R. A. I. Munday, "Civilian Possession of Military Firearms", *Salisbury Review*, March 1988, p. 45-49.
43. *Times*, 26 August 1988, p. 3.
44. Munday, *op. cit.*
45. *Times*, 26 August 1988, p. 3.
46. *USA Today*, 18 April 1984.
47. Greenwood, "Comparative Statistics", *op. cit.*, p. 37-38.
48. *Ibid.*, p. 35-36.
49. Munday, *op. cit.*, *passim*.
50. *Ibid.*
51. Kopel, *op. cit.*, p. 18.
52. *Ibid.*, p. 3.
53. S. Gabb, *Gun Control in Britain*, Political Notes No. 33, Libertarian Alliance, London, 1988, p. 4.
54. *Sunday Telegraph*, 30 July 1989, p. 20.

FURTHER READING

C. Greenwood, *Firearms Control*, Routledge and Kegan Paul, London, 1972. The definitive academic study of the problem; a comprehensive historical, legal, statistical, criminological and practical survey of firearms control in England and Wales. Written by a former senior police officer who now edits *Guns Review*, the leading firearms journal in the country and is a voice of reason on the subject. Iconoclastic and indispensable to any understanding of the subject.

Don B. Kates, ed., *Firearms and Violence*, Pacific Institute for Public Policy Research, San Francisco, 1984. An encyclopaedic collection of studies by 17 academics and lawyers, covering every area of the issue from a perspective sympathetic to gun ownership. Some of these scholars, including Professor James D. Wright, former president of the American Sociological Association, began their studies advocating stricter firearms control, and became convinced of the opposite case as a result of their researches. A complete demolition of the case for totalitarianism in firearms.

Don B. Kates, ed., *Restricting Handguns: The Liberal Skeptics Speak Out*, North River Press, np, 1979. Essays by eight experts on the subject of legal controls on pistols and other firearms. Most of the authors are American "liberals" in law and academe who dissent here from the gun-control orthodoxy of US "liberalism", and explain why.

T. Jackson, *Legitimate Pursuit*, Ashford Press, Southampton, 1988. Sponsored by the British Association for Shooting and Conservation as a response to the 1988 Firearms (Amendment) Bill, and covering only sporting guns, this short book, by one of Britain's leading experts on the subject, gives useful technical information about different guns and solid arguments, based on facts, against further firearms restrictions, while being rather defensive and not challenging the basic principles of British gun control. The use of guns for sporting purposes has hardly been mentioned in my essay, which emphasises the use of firearms for self-defence.

Law and Policy Quarterly, volume 5, number 3, July 1983. An interdisciplinary American academic journal with contributions by eight experts from a viewpoint critical of further restrictions. Some of the essays were later included in *Firearms and Violence* in extended forms.

D. B. Kopel, "Trust the People", Cato Institute Policy Analysis No. 109, 11 July 1988. A short pamphlet by an American lawyer that contains most of the relevant facts and arguments in an easily digested form.

S. Gabb, *Gun Control in Britain*, Political Notes No. 33, Libertarian Alliance, London, 1988. A short and useful critique of gun control from a libertarian perspective.