

GUN CONTROL: POLITICAL FEARS TRUMP CRIME CONTROL

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No matter how draconian, gun control laws are weakly enforced (at least in the United States) and seldom of any significant effect in reducing crime.³ The kind of citizen who will comply with a gun law is the opposite of the person who will use a gun to facilitate his or her crimes. As the author of the District of Columbia's 1968 gun registration scheme candidly stated while the District's 1975 gun ban was under consideration:

The problem, [Hechinger] said, is the failure of the mayor and police department to enforce the [current] regulations. "Not only didn't they enforce them: they didn't even publicize them," he said.

If the city's executives were lax on gun laws, its judiciary was hardly better. Of 184 persons prosecuted and convicted for first-time gun possession in the first six months of the year, only 14 received jail sentences.

One judge, according to a report to the House District Committee last week, awarded a jail sentence to only one of 73 gun offenders convicted in his court.⁴

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³ Gary Kleck and E. Britt Patterson, *The Impact of Gun Control and Gun Ownership on Violence Rates*, 9 J. Quant. Crim. 249 (1993).

⁴ William Raspberry, "What About the Old Gun Law?", *Wash. Post*, June 16, 1975.

This led a prominent newspaper commentator to remark that “[i]t might be a good idea to try enforcing the old law before rushing to enact new ones.”⁵

Even as they were voting for the new gun ban, D. C. politicians were admitting that it was a mere placebo. City Councilman Marion Berry (later to become Mayor) admitted: “Massachusetts has stringent gun control and armed robbery has not decreased but increased. The TV creates far more violence than any gun lobbyist. I, too, am going to vote for this bill [sic]that I want it understood that I realize it’s not adequate....”⁶ Councilman Jerry Moore made the same point saying that he had “no illusions about this law—it won’t take guns off the streets.”⁷

So the question becomes, “Why enact them?”

Is there a hidden political dynamic? But “hidden” means hard to find. So maybe we should look for the answer in a related jurisdiction that keeps more extensive records of its government’s deliberations.

In 1870, there were no laws regulating the possession, purchase, and peaceful carrying of firearms in Britain. Anyone, child or adult, could buy a pistol, load it, and carry it under his coat with no legal consequences. As late as 1920, the law presented no obstacle to an adult without a criminal history purchasing a rifle, shotgun, or pistol, and carrying it concealed upon his person.⁸ Yet today, Britain has some of the most restrictive gun control laws

⁵ *Id.*

⁶ Earl Byrd, “D.C. Gun Curb Bill Gains Despite Warning on Klan,” *Washington Star*, May 4, 1976, at B-4.

⁷ *Id.*

⁸ Colin Greenwood, *Firearms Control: A Study of Armed Crime and Firearms Control in England and Wales* (London: Routledge & Kegan Paul, 1972), 7-26. Greenwood was Chief Inspector of the West Yorkshire Constabulary at the time he wrote his ground-breaking work on British gun control law. Robert Carr and Gordon Campbell, *The Control of Firearms in Great Britain: A Consultative Document* (London: Her Majesty’s Stationery Office, 1973), 3, very briefly confirms the lax regulation of firearms before 1920.

in the world.⁹

The Firearms Act of 1920 was a watershed of British firearms control. From its passage, the ownership of firearms ceased to be a right of Englishmen, and instead became a privilege — one increasingly restricted over the intervening 75 years. Under the direction of the Home Office, police discretion in licensing throughout Britain has made ownership of firearms an increasingly rare event. Why was the Firearms Act of 1920 passed?

There are several possible causes for the Firearms Act of 1920, all of which are plausible explanations: concern about criminal misuse of firearms; gun running to Ireland; increased political violence in the pre-World War I period. Yet examination of the Cabinet papers declassified in 1970, and Cabinet Secretary Thomas Jones' diaries, shows that all of these other concerns were insignificant compared to the fear of Bolshevik revolution.

A Briton's Traditional *Right* to Have Arms

First of all, it is necessary to clearly understand that the absence of firearms controls was not because low crime rates made them unnecessary, but because Britons considered the possession of arms to be a *right*. The English Bill of Rights (1689) asserted by its passage that the people were “vindicating and asserting their ancient rights and liberties,” including the seventh article:

7. That the subjects which are protestants, may have arms for their defence suitable to their conditions, and as allowed by law.¹⁰

This guarantee reflected the widespread fear of absolutism and Jacobite royal

⁹ See generally Joseph E. Olson and David B. Kopel, *All the Way Down the Slippery Slope: Gun Prohibition in England and Some Lessons for Civil Liberties in America*, 22 Hamline L. Rev. 399 (1999).

¹⁰ Walter Laquer and Barry Rubin, ed., *The Human Rights Reader* (New York: New American Library, 1979), 106.

tyranny. Some have defended this claim of “ancient rights and liberties” with great skill.¹¹ The most scholarly examination, however, shows that in the aftermath of the English Civil War, political theorists imagined what had formerly been a *duty* to bear arms in defense of the realm and public order into a “true, ancient, and indubitable right.”¹²

Blackstone’s *Commentaries on the Laws of England* (1765) also asserted this right:

The fifth and last auxiliary right of the subject, that I shall at present mention, is that of having arms for their defense, suitable to their condition and degree, and such as are allowed by law.... [I]t 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.¹³

Both the English Bill of Rights and Blackstone’s remarks show that significant restrictions (“suitable to their condition and degree”) hemmed in this right. Nonetheless, both still defined this as a *right* to arms.

Jacobite absolutism seemed an adequate reason in 1689 to enshrine the Protestant Englishman’s right to arms, especially since the English Bill of Rights limited only the power of the sovereign, not of Parliament. But as Joyce Malcolm observes: “It is easy to defend popular liberties when ‘things

¹¹ Stephen P. Halbrook, *That Every Man Be Armed: The Evolution of a Constitutional Right* (University of New Mexico Press, 1984; reprinted Oakland, Cal.: The Independent Institute, 1984), 37-43. See Clayton E. Cramer, *For The Defense of Themselves And The State: The Original Intent and Judicial Interpretation of the Right to Keep And Bear Arms* (Westport, Conn.: Praeger, 1994), 19-25, for an examination of where Halbrook goes astray, as well as an overview of other scholarly examinations of the English roots of this right.

J. B. Hill, *Weapons Law* (London: Waterlow Publishers, 1989), 117, points to a decision *The Case of Arms* in the reign of Elizabeth I that held “that every subject may arm himself against[sic] evil-doers.” The absence of legal prohibition, however, is sometimes phrased in a way that can suggest a guarantee when there is only the absence of a prohibition.

¹² Joyce Lee Malcolm, *To Keep And Bear Arms: The Origins of an Anglo-American Right* (Cambridge, Mass.: Harvard University Press, 1994), 1-11. Malcolm’s work is certainly the most comprehensive and scholarly, perhaps because so much of the other study of this subject has been done by lawyers, trained to advocate.

¹³ William Blackstone, William Carey Jones, ed. *Commentaries on the Laws of England* (San Francisco: Bancroft-Whitney Co., 1916), §199, 246.

remain in their legal and settled course,' but far more difficult when anarchy, not absolutism, threatens."¹⁴

London's Gordon Riots of 1780 were one of those times when anarchy seemed to be a real risk. In the aftermath of those riots, debate in the House of Lords on June 19, 1780, included a discussion of the King's speech concerning the actions taken to suppress those riots. Lord Richmond objected to certain parts of the King's speech:

His next object of censure was the conduct of the Commander in Chief of the army, for the letters he sent to Colonel Twisleton, who commanded the military force in the City, ordering him to disarm the citizens, who had taken up arms, and formed themselves in to associations, for the defence of their lives and properties. These letters he considered as a violation of the constitutional right of Protestant subjects to **keep and bear arms** for their own defence. [emphasis added]

Lord Amherst agreed that the disarming order was intended only for the rioters, "but no passage in his letter could be construed to mean, that the arms should be taken away from the associated citizens, who had very properly armed themselves for the defence of their lives and property."¹⁵

The duality of the contemporary usage was shown by a contemporaneous pronouncement by the Recorder of London -- the city's chief legal officer -- when asked if right to *have arms* in the English Declaration of Rights protected armed defensive groups as well as armed individuals. He wrote:

The right of his majesty's Protestant subjects, to **have** arms for their own defence, and to **use** them for lawful purposes, is most clear and undeniable. It seems, indeed, to be considered, by the ancient laws of this kingdom, not only as a *right*, but as a *duty*; for all the subjects of the realm, who are able to **bear arms**, are bound to be ready, at all times, to assist the sheriff, and other civil magistrates, in the execution of the laws and the preservation of the public peace. And **that right, which every Protestant most unquestionably possesses, individually**, may, and in many cases *must*, be exercised collectively, is likewise a point which I conceive to be

¹⁴ Malcolm, *To Keep And Bear Arms*, 166.

¹⁵ *Id.*

most clearly established by the authority of judicial decisions and ancient acts of parliament, as well as by reason and common sense.¹⁶ [emphasis added]

The common law was in agreement. Edward Christian's edition of Blackstone's Commentaries that appeared in the 1790's described the rights of Englishmen (which every American colonist had been promised) in these terms "everyone is at liberty to keep or carry a gun, if he does not use it for the [unlawful] destruction of game."¹⁷ This right was separate from militia duties.¹⁸

The agricultural slump after the Napoleonic Wars three decades later led to widespread unrest, riots, and assemblies calling for Parliamentary reform. After the so-called Peterloo massacre, the conflict between the right to bear arms and fear of working class unrest led the English courts to distinguish between the differing reasons for bearing arms. The courts concluded that there was an individual right to bear arms for self-defense, but there was no right to carry arms as part of an organization, or to a political rally.¹⁹

More ominously, the Seizure of Arms Act, one of the "Six Acts" passed in 1819 by Parliament in response to the unrest, provided for constables to search for and seize arms on the testimony of a single person that they were being kept for a purpose "dangerous to the public peace." The Seizure of Arms Act was limited to the industrial areas where riots took place, and with

¹⁶ 1 William Blackstone, Commentaries *133-34 (St. George Tucker ed., 1803) (quoting William Blizard, *Desultory Reflections on Police* 59-60 (1785)).

¹⁷ 2 William Blackstone, *Commentaries on the Laws of England* *441, ed. Edward Christian, (12th ed., London, 1793-1795).

¹⁸ Joyce Lee Malcolm, *To Keep and Bear Arms: The Origins of an Anglo-American Right*, Ch. 7 (Cambridge, Harvard University Press, 1994).

¹⁹ Malcolm, *To Keep And Bear Arms*, 166-168; Greenwood, *Firearms Control*, 14-16. Sixty-seven years later, the United States Supreme Court would make approximately the same distinction, and motivated by similar working class efforts to correct social ills. See Cramer, *For The Defense of Themselves And The State*, 128-134, for a discussion of *Presser v. Illinois* (1886) and similar prohibitions on labor union militias.

a two-year expiration period. Nonetheless, in the House of Lords, Earl Grey called it a violation of the rights of Englishmen “not only for defence against the assassin or the midnight robber, but to enforce his constitutional right of resistance to oppression, if deprived of the benefit of the laws.”²⁰

In the Commons, M.P. Bennet argued the same point:

[T]hat the distinctive difference between a freeman and a slave was a right to possess arms, not so much... for the purpose of defending his property as his liberty. Neither could he do, if deprived of those arms, in the hour of danger.”²¹

Even Lord Castlereagh, then foreign secretary, admitted: “[I]t was an infringement upon the rights and duties of the people, and that it could only be defended upon the necessity of the case. But that necessity now existed....”²² Similar measures had been applied to civil war in Scotland and Ireland in the past, Castlereagh observed. M.P. Brougham pointed out that in both cases, however, these civil wars had involved foreign assistance — unlike this case.²³

Yet even the Seizure of Arms Act had made distinctions based on the function of different classes of arms that were to be seized. “Any pike, pike head or spear in the possession of any person or in any house or place...” was subject to confiscation. Yet “any dirk, dagger, pistol or gun or other weapon” was to be seized if it was for “any purpose dangerous to the public peace....”²⁴ This distinguished between weapons perceived as offensive and defensive, for even the supporters of the Seizure of Arms Act generally accepted the right to possess arms for self-defense.²⁵

²⁰ T. C. Hansard, *The Parliamentary Debates from the Year 1803 to the Present Time*, December 6, 1819, 41:749.

²¹ Hansard, *Parliamentary Debates*, December 14, 1819, 41:1130.

²² Hansard, *Parliamentary Debates*, December 14, 1819, 41:1136.

²³ Hansard, *Parliamentary Debates*, December 14, 1819, 41:1134-6.

²⁴ Greenwood, *Firearms Control*, 14.

²⁵ Hansard, *Parliamentary Debates*, December 3, 1819, 41:695.

The Seizure of Arms Act expired after two years, and Parliament passed no similar restrictions between 1819 and the end of the nineteenth century, even during the turbulence of the Chartist movement,²⁶ and repeated assassination attempts on Queen Victoria with pistols.²⁷ Greenwood suggests that by the time of the Chartists, the professionalization of the police forces meant that the government relied less upon paid informants as a source of information on subversives. (Paid informants were prone to exaggeration because they perceived that their value to the police was dependent on the seriousness of the information they provided.) In addition, information provided by firearms manufacturers persuaded the Home Secretary that the Chartists were not arming for revolution, despite alarming newspaper accounts to the contrary.²⁸

So relaxed were British firearms controls throughout the remainder of the nineteenth century that Parliament passed only one measure regulating the carrying or possession of firearms: the Gun Licences Act of 1870. This measure required a license to carry a firearm (concealed or openly) outside one's home. Greenwood asserts:

It was merely an Excise Act and required, with certain exceptions, that any person carrying or using a gun elsewhere than in or within the curtilage of a dwelling-house should pay a revenue fee of ten shillings. The licence was available, without question, at any Post Office.²⁹

²⁶ Greenwood, *Firearms Control*, 16-17.

²⁷ Stanley Weintraub, *Victoria: An Intimate Biography* (New York: E.P. Dutton, 1987), 145, 154-155, 386, 402, 450.

²⁸ Greenwood, *Firearms Control*, 16-17.

²⁹ Greenwood, *Firearms Control*, 17. It is not clear where Greenwood obtained this information about the Gun Licences Act of 1870. The Earl of Onslow made the same claim concerning it in the Second Reading of the Firearms Act of 1920 in the House of Lords on April 27, 1920. See *Parliamentary Debates*, House of Lords, new series, 39:1025. A letter to *Punch*, April 23, 1870, 165, by a college student complains that the writer "and my three brothers, we go shooting in the holidays, that is we used to, but shan't be able any more if we've got to pay a pound a-piece for gun-licences." A 1907 publication by the British firearms industry complained that the Gun Licences Act, and its sometimes absurd enforcement, had reduced use of rifles and shooting as a sport. [Artifex and Opifex], *The*

Other sources suggest that some members of Parliament had other motivations besides revenue. During debate concerning amendments to the Act in 1879, Sir Alexander Gordon argued that the measure had created great difficulties for farmers, who had previously been allowed to possess firearms for frightening away birds, without needing to obtain a game license. More ominously, Gordon asserted that the Secretary to the Treasury “said he did not believe the Bill would in any way promote the preservation of game, and he had supported it on the sole ground that it would be useful in securing the registering of arms in this country” and that the then Chancellor of the Exchequer’s stated purpose was “to discourage the lower classes from habitually carrying deadly weapons.” However, because it applied only to the carrying of guns, it did not even serve the stated purpose of keeping guns out of the hands of the dangerous classes.³⁰

Other MPs, during those debates, acknowledged that the Gun Licences Act of 1870 had caused considerable upset among farmers, did not even accomplish the questionable goal of registering guns (primarily intended for use in Ireland, “where the Government were anxious to find out who were in possession of guns,” and that if there was not sufficient support to repeal the law, it should be reformed.³¹

Parliament considered several firearms control bills between the Gun Licences Act of 1870 and the end of the century. These bills either sought enhanced penalties for armed burglary, or proposed requiring a hunting or

Causes of Decay in a British Industry (London: Longmans, Green, & Co., 1907), 140-1.

M.P. Kenworthy’s speech of June 10, 1920, at *Parliamentary Debates: Official Report*, House of Commons, 5th series, 1920, 130:659, and George Dangerfield, *The Strange Death of Liberal England: 1910-1914* (New York: Capricorn Books, 1961), 194, both suggest that magistrates issued the licenses. This would seem to contradict both Greenwood and the Earl of Onslow’s description of how licenses were issued.

³⁰ Hansard, *Parliamentary Debates*, June 18, 1879, 247:118-24.

³¹ Hansard, *Parliamentary Debates*, June 18, 1879, 247:124-8.

carrying license as a condition of purchasing a handgun. The combination of substantial opposition to restrictions on arms and a perception that the bills were superfluous caused all to die on the first or second reading in the House of Commons.

Most of these proposals were aimed at criminal misuse.³² Yet there were other motives present as well. When the Marquess of Carmarthen introduced the Second Reading of his 1895 Pistols Bill in the Commons, he “complained that he would have preferred a Bill which provided that no one but a soldier, sailor or policeman should have a pistol at all, because they were a source of danger to their possessors....”³³

The Pistols Act of 1903, in contrast to the similar, somewhat more restrictive measures introduced in 1893 and 1895, passed with little debate. Greenwood suggests that because proof of being a householder was one of the three methods by which a buyer qualified to buy a handgun, this measure was not regarded as an attack on the right to bear arms. Since the stated goal was to prevent children from buying handguns from retailers, and it accomplished that and nothing else, the Pistols Act was uncontroversial.³⁴ The Pistols Act required buyers of pistols to either “produce a gun or game licence then in force” or provide the seller “reasonable proof that he is a person entitled to use or carry a gun without a gun or game licence. Even this requirement, however, was not required if “being a householder, he proposes to use such pistol only in his own house” and that he provide a statement that “he is about to proceed abroad for a person of not less than six months” signed by a police official or justice of the peace. Other provisions

³² Greenwood, *Firearms Control*, 18-26.

³³ Greenwood, *Firearms Control*, 24.

³⁴ Greenwood, *Firearms Control*, 27-30.

prohibited sale to persons under 18 years of age, or who was “intoxicated or is not of sound mind.” And unsurprisingly, this law did not apply in Ireland.³⁵

The absence of laws regulating handgun ownership might be evidence that private ownership in Britain was rare as the nineteenth century waned. The literature of the period, however, shows that handguns as defensive weapons were considered an ordinary part of British life. H. G. Wells’ *The Invisible Man* portrays both American visitors and Britons using pistols for self-defense, with an awareness that British lawful use of deadly force was more restrictive than in America:

“Draw the bolts,” said the man with the black beard, “and if he comes ---,” he showed a revolver in his hand.

“That won’t do,” said the policeman; “that’s murder.”

“I know what country I’m in,” said the man with the beard. “I’m going to let off at his legs. Draw the bolts.”³⁶

In the climax, a police official asks a British civilian for a revolver with the expectation that there is one in the house.³⁷ Similarly, in *The War of the Worlds*, Wells portrays a young lady defending herself from ruffians with a revolver she keeps under the seat of her carriage, with no indication that this was surprising or unusual.³⁸

Bram Stoker’s fiction also provides some idea of how late Victorian society regarded handguns. “The Squaw,” published in the mid-1890s, depicts the

³⁵ Pistols Act, 3 Edw. 7, ch. 18, quoted in R. Cunningham Glen, ed., *Reports of Cases in Criminal Law* (London: Horace Cox, 1907), xiii-xiv.

³⁶ H.G. Wells, *The Invisible Man* (1897), ch. 14. One recent work on British weapons law asserts that under the Offences Against The Person Act 1861, a deadly weapon “cannot be carried or used to injure other people.” However, judges have introduced a few confusing exceptions to this statement. As an example, a firearm can be used with the intent of *frightening* an attacker, even if the warning shot *accidentally* hits the attacker. A firearm fired with the intent of hitting an intruder is a violation of the law. This hair-splitting distinction, described in *The Invisible Man*, remains in effect today in Britain. See J. B. Hill, *Weapons Law*, 57-60, for a discussion of current British armed self-defense law.

³⁷ Wells, *The Invisible Man*, ch. 27.

³⁸ H.G. Wells, *The War of the Worlds* (1898), ch. 16.

relationship between an upper class British couple on their honeymoon in Nurnberg, and “Elias P. Hutcheson, hailing from Isthmian City, Bleeding Gulch, Maple Tree County, Nebraska,” a figure who is portrayed as comical, but also decent, intelligent, well-intentioned — and armed:

“I say, ma’am, you needn’t be skeered over that cat. I go heeled, I du!” Here he slapped his pistol pocket at the back of his lumbar region. “Why sooner’n have you worried, I’ll shoot the critter, right here, an’ risk the police interferin’ with a citizen of the United States for carryin’ arms contrary to reg’lations!”³⁹

Hutcheson meets a tragic end, but Stoker treats his carrying of a pistol in violation of German law as colorful, with no more horror than we regard driving slightly over the speed limit on the Interstates.

Dracula, Stoker’s most famous novel, is awash in handguns. Unlike “The Squaw,” the American Jonathan Harker is not the only person armed with a handgun. Eventually, most of the vampire hunters carry them (not for use against Dracula, but for defense against his living employees). Like Wells’ novels, Stoker’s fiction expresses neither horror nor amazement at ordinary people possessing and carrying handguns for self-defense.⁴⁰

Sir Arthur Conan Doyle’s Sherlock Holmes stories might be regarded as not meaningful to this paper’s purposes, since Holmes, by the nature of his occupation, must occasionally deal with some rough characters. Yet it is not only the eccentric Holmes who possesses a revolver, and occasionally practices with it inside his apartment, to his landlady’s irritation⁴¹ — but also Dr. Watson.⁴²

BOLSHEVISM AND THE FIREARMS ACT OF 1920

³⁹ Bram Stoker, “The Squaw”, Charles Osborne, ed. *The Bram Stoker Bedside Companion* (New York: Taplinger, 1973), 120.

⁴⁰ Bram Stoker, *Dracula* (1897), ch. 26-29.

⁴¹ Arthur Conan Doyle, *The Adventure Of The Dying Detective* (1913), ch. 1.

⁴² Arthur Conan Doyle, *The Adventure Of The Empty House* (1903), ch. 1.

Yet during this period of firearms *laissez-faire* before World War I, the Government was discussing handgun restrictions. The Home Office apparently prepared a more restrictive revision of the Pistols Act in 1911. The Sidney Street Siege involving Russian anarchists that year, and the events leading up to it, caused the Home Office to introduce a somewhat narrower measure, the Aliens (Prevention of Crime) Bill of 1911. This bill sought to restrictively license carrying or ownership of a handgun by aliens, but failed to get to Second Reading in the Commons.

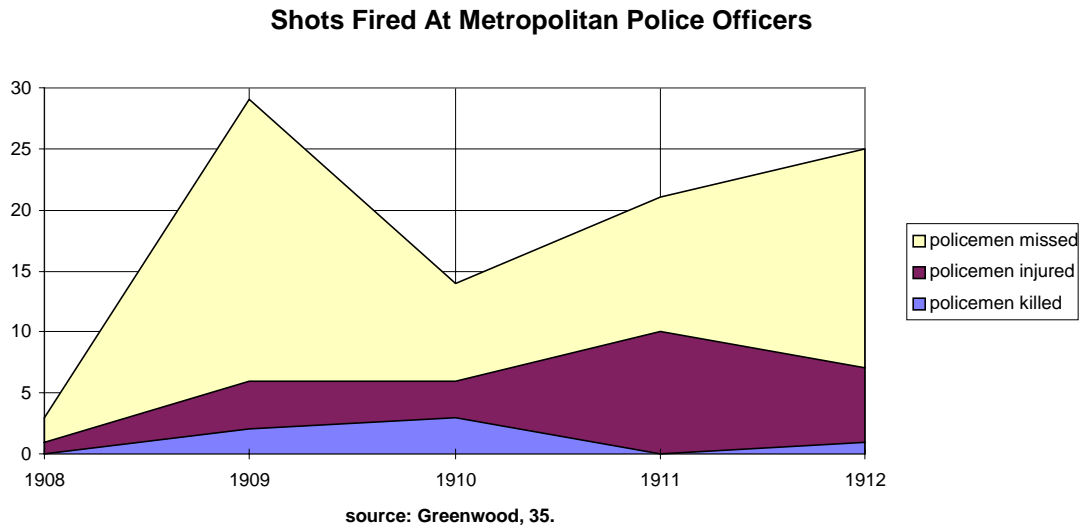
The British Government's continuous upheaval during this time, followed by World War I, seems to have stopped efforts to more tightly regulate firearms.⁴³ Home Secretary Edward Shortt in 1920 suggested that Parliamentary objections had also prevented licensing of handguns before World War I: "The Home Office had a Bill ready but in the past there have always been objections."⁴⁴

What motivated the Home Office's never-introduced 1911 Pistols Act, and their continuing interest in the subject after World War I? One possible reason was the dramatic increase in shots fired at London police officers. While the total number of officers killed, injured, or fired upon remained small, the increase from 1908 to 1912 would have seemed staggering, especially since the "bobby" was unable to return fire:⁴⁵

⁴³ Greenwood, *Firearms Control*, 31-36.

⁴⁴ Thomas Jones, Keith Middlemas, ed., *Whitehall Diary* (London: Oxford University Press, 1969), 1:100.

⁴⁵ Hill, *Weapons Law*, 91. From the beginning of the modern police department, British police officers have "relied upon the baton and the staff as the only weapons they require." Firearms have been issued to elite units, or for limited periods for very specialized purposes.



Whether criminal misuse above and beyond assaults on police officers was a reason for restrictions remains a difficult question to answer. The accuracy of crime statistics for this period are not high, and the deficiencies of those statistics are probably clearer in hindsight than they were to contemporary politicians. The statistics used by various Parliamentary committees in this period are seldom part of a continuous series, or consistently gathered, which makes meaningful analysis difficult. Moreover, *perceptions* of criminal misuse are often more important for the making of laws than *actual* misuse.

Another factor that might explain the 1911 bill was the social chaos that developed around the suffragettes, labor struggles, and the problems of Ireland. The civility that characterized most of the Victorian and Edwardian period in Britain was unraveling.

The suffragettes were the militant faction of the movement that sought equal rights for women. The suffragettes did not *request* “Votes for Women” but *demand*ed it, with a campaign of vandalism and arson intended to bully the ruling Liberal Party into compliance. While suffragette violence was directed entirely at objects, not people, Dangerfield makes the interesting

observation that in the midst of this campaign of burning vacant buildings and smashing shop windows, “otherwise nice old ladies began to apply for gun licenses, to the terror of their local magistracy....”⁴⁶ The gun licenses allowed not only the *purchase* but also the *carrying* of guns. As we have already seen, there was no way to avoid issuing the license. This explains the judges’ “terror.”

The trade disputes led to a more serious outbreak of violence. The 1910 coal miners’ strike in the Rhondda Valley in Wales caused the Home Office to send 802 police officers and several regiments of soldiers to restore order — though it is not clear how much real disorder was present when the police and army were first called.⁴⁷ The London Transport Workers’ Strike of 1911 led to more serious violence, with soldiers fatally shooting strikers who attempted to block trains operated by strikebreakers.⁴⁸

The most serious of the pre-war conflicts were related to Ireland. It is no surprise that Irish Nationalists engaged in armed violence in their attempts to secure independence from Britain. It would also be no surprise if Cabinet concerns about Irish Nationalist access to weapons in Britain played some part in bringing about the Firearms Act of 1920. Ireland had long been subject to more restrictive firearms law than Britain.⁴⁹ What is surprising is how little of the secret post-war Cabinet papers suggest a linkage between violence in Ireland and British firearms restrictions.

In addition to the problems of Irish Nationalist violence, the prospect of Home Rule for Ireland led to another serious problem: the twin threats of Ulster Protestant insurrection and mutiny in the army. Sir Edward Carson

⁴⁶ Dangerfield, *The Strange Death of Liberal England*, 194.

⁴⁷ Dangerfield, *The Strange Death of Liberal England*, 242-7.

⁴⁸ Dangerfield, *The Strange Death of Liberal England*, 265-72.

⁴⁹ Greenwood, *Firearms Control*, 38.

led Ulster Protestants who were determined to revolt and form their own government, rather than live under the rule of Ireland's Catholic majority.⁵⁰

Sympathy for the Ulster Protestants ran high in the British Army. A number of high-ranking officers, including generals and regimental commanders, when ordered to prepare "active operations against Ulster" in 1913 or risk "dismissal with loss of pension" resigned their commissions. Interestingly enough, Bonar Law, leader of the opposition Conservatives, who appears to have encouraged this mutiny,⁵¹ was one of the fearful members of the post-war Cabinet responsible for the Firearms Act of 1920.

World War I quickly unified an otherwise fractured nation. Militant suffragettes became patriotic organizers. Many Irish Nationalists suspended their crusade, at least for the first two years of the war. Most internal agitation ended in response to the perceived national need and the restrictive measures of the Defence of the Realm Act. But as with most wars, the initial patriotic feeling did not last, and the various sources of pre-war conflict began to reappear by 1917.

The 1916 Easter Uprising by Irish Nationalists in Dublin, and the British Government's execution of the leaders, created a broad-based Irish Nationalism. From 1917 onward, reports to the Cabinet about Ireland give evidence of high-level concern about arms in the hands of the Irish Nationalists.

Secret Cabinet reports such as Field Marshall French's July 17, 1917 "The Military Situation in Ireland" acknowledged, "[T]hat the number of people openly professing Sinn Fein principles and sympathies [is] vastly greater than it was a year ago" and "nor is there any satisfactory evidence that

⁵⁰ Dangerfield, *The Strange Death of Liberal England*, 84-138.

⁵¹ Dangerfield, *The Strange Death of Liberal England*, 342-345.

considerable quantities of Arms are not hidden away.”⁵² Yet there was no expressed interest in adding restrictions to the existing arms laws in Britain, perhaps because the Defence of the Realm Act had given the Government extraordinary authority to regulate firearms and ammunition for the war effort.⁵³

Yet by 1920, the problem of disarming the Irish Nationalists had acquired an English connection. A Cabinet meeting on May 31, 1920, discussed how to disarm the Irish rebels. Sir Hamar Greenwood, Chief Secretary of State for Ireland, explained that it was not practical to disarm the rebels because arms were readily available in England, and easy to smuggle into Ireland: “There is nothing to stop people bringing arms from England because they are easily concealed.”⁵⁴

As tempting as it is to see the Irish problem as the proximate cause for the Firearms Act of 1920, there is a chronological problem with such an explanation. By May 31, when Greenwood drew the connection between lax gun laws in Britain and the Irish problem, the Firearms Act was already on its way from the House of Lords to the Commons.⁵⁵ If the hope of disarming Irish Nationalists played a part in the Firearms Act of 1920, there is no paper trail to show a connection. The Cabinet might have previously had this concern, but did not put it into writing, but there is no evidence that the Irish problems played a direct role in causing the Firearms Act of 1920.

Another motivation for the Firearms Act of 1920 was protection of the Empire (and that of other colonial powers) from national independence movements, as well as fear of foreign anarchists in Britain. In late 1918, Sir

⁵² PRO CAB 24/20/316.

⁵³ Malcolm, *To Keep And Bear Arms*, 172.

⁵⁴ Jones, *Whitehall Diary*, 3:21.

⁵⁵ Malcolm, *To Keep And Bear Arms*, 172-3.

Ernley Blackwell chaired a committee whose purpose was to

consider the question of the control which it is desirable to exercise over the possession, manufacture, sale, import and export of firearms and ammunition in the United Kingdom after the war, both from the point of internal policy and having regard to the Report of the Sub Committee on Arms Traffic of the Committee of Imperial Defence.⁵⁶

The Blackwell Committee's report expressed concern about surplus weapons ending up in the hands of "Savage or semi-civilized 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....⁵⁷

It would appear that the Blackwell Committee was not concerned about non-political criminal misuse of firearms.

To reduce the supply of arms to the "tribesmen" and "anarchists," the committee suggested that licensing of firearms ownership should be discretionary on the part of the Chief Officer of Police for each district. (Ireland, of course, was to be subject to much stricter controls.) As a consequence of the concern about "savage or semi-civilized tribesmen," the British Government participated in the Paris Arms Convention of 1919. This was apparently a result of the Blackwell Committee's recommendations.⁵⁸

The Blackwell Committee's fear of native rebellion in the Empire is not surprising. The spectacle of Europeans reduced to the pointless savagery of the Great War certainly took the "advanced" Europeans down a few notches in the estimation of their colonial "children." Nationalist movements grew rapidly throughout many European empires as a result of World War I.

⁵⁶ "Report of the Committee on Control of Firearms", Chairman Sir Ernley Blackwell, KCB, unpublished Home Office Paper, presented November 15, 1918, quoted in Greenwood, *Firearms Control*, 36.

⁵⁷ "Report of the Committee on Control of Firearms", quoted in Greenwood, *Firearms Control*, 38.

⁵⁸ Greenwood, *Firearms Control*, 39-40.

Greenwood makes much of the relationship between the Blackwell Committee's recommendations with respect to "tribesmen in outlying parts of the Empire" and the Firearms Act of 1920. At first glance, this seems an obscure relationship. The Blackwell Committee hoped primarily to reduce the supply of surplus military arms. Reducing domestic sales in Britain would have been a very indirect way of disarming rebels in Kashmir or Burma. But the Firearms Act of 1920 included two quite separate sections: one that restricted firearms and ammunition ownership in Britain, and another that controlled export.⁵⁹ From the standpoint of the rights of Englishmen, the export provisions are irrelevant, and will not be further addressed in this paper.

As World War I came to a conclusion, the labor strife of the pre-war period again reared its head, with one additional ingredient in the caustic stew: Communism. An August 1917 "Memorandum by Professor E. V. Arnold of Bangor University" was circulated to the Cabinet at the request of Lord Milner, warning of "Labour in Revolt." Professor Arnold warned of a movement of younger workers that did not follow the trade union leaders. Professor Arnold's "Labour in Revolt" described a doctrinaire revolutionary Marxist movement. While the words "Communist" and "Bolshevik" never appear in Arnold's memorandum, his language leaves no doubt that he was describing this movement. Arnold also carefully distinguished this movement from the Labour Party itself.⁶⁰

In addition to the Communist workers, an additional faction became a

⁵⁹ *Parliamentary Debates*, House of Lords, new series, 39:1028-9. The Arms Convention of 1919, according to the Earl of Onslow, prohibited export of arms and ammunition into those areas of Africa and the Middle East that, in retrospect, were the most likely to overthrow their colonial masters.

⁶⁰ PRO CAB 24/24/160-2, 164.

recurring concern of the Government: soldiers. In September 1917, Lord Curzon circulated to his fellow Cabinet ministers a letter from the Bishop of Oxford, warning of “Alleged Disaffection Existing Among British Troops at Home.” The Bishop’s letter warned that hunger, low pay, and a refusal to allow leave caused British soldiers to secretly put up a placard “to say that they were going to imitate the Russian soldiers” and that they engaged in “open sedition in speech.”⁶¹

The Bolshevik Revolution in Russia, late in 1917, certainly added fuel to the fire of fear in the Cabinet. As World War I dragged to a close, conditions in Britain created increasingly serious strikes. The strike by the London police force on August 30, 1918 was one of the most frightening such industrial actions of the time. Out of a force of 19,000 policemen, 10,000 failed to show up for work. Lloyd George later claimed Britain “was closer to Bolshevism that day than at any other time since.”⁶² Sir Basil Thomson, Scotland Yard’s Director of Intelligence, wrote in late 1918 that “England would be spared the full horrors of Bolshevism” yet also believed that the nation could be severely damaged by “serious labour disturbances, carried on with the sympathy of the Police.” Thomson also believed that “serious labour disturbances” were beyond the control of the police in big cities.⁶³

Immediately after the war, a wave of Communist revolutionary actions took place on the continent. In North America, government leaders interpreted a series of disturbances and strikes as evidence of Communist subversion. These events created increasing levels of fear within the Cabinet

⁶¹ PRO CAB 24/25/355.

⁶² Christopher Andrew, *Her Majesty’s Secret Service: The Making of the British Intelligence Community* (New York: Viking Penguin, Inc., 1986), 228. Originally this work was published in Britain under the title *Secret Service: The Making of the British Intelligence Community* (1985).

⁶³ Andrew, *Her Majesty’s Secret Service*, 228-229.

and the British intelligence service. One report passed up the chain of command in early 1919 with an approving cover note asserted:

I now find myself convinced that in England Bolshevism [*sic*] must be faced and grappled with, the efforts of the International Jews of Russia combated and their agents eliminated from the United Kingdom. Unless some serious consideration is given to the matter, I believe that there will be some sort of Revolution in this country and that before 12 months are past....⁶⁴

The events of early 1919 seemed to confirm these fears of Communist revolution. A general strike in Glasgow led to the raising of the red flag over city hall. The *Glasgow Herald* called it a first step toward Bolshevism, and the Secretary of State for Scotland called it a Bolshevik rising. The army was mobilized, but the police restored order without the military's assistance. In retrospect, the general strike in Glasgow was *not* the first step of revolution, but it is certainly understandable that the intelligence service, the Cabinet, and the king, misread it as such.⁶⁵

The concern about revolutionary violence appears to have motivated similar firearms control laws in the Dominions.⁶⁶ In Canada, the Winnipeg General Strike in May 1919 led to violence. Thomson's "Report on Revolutionary Organizations in the United Kingdom," January 22, 1920, described it as

not an industrial dispute but really an attempt to overthrow the constitutional government and to replace it by a form of Soviet Government planned and fashioned by the Industrial Workers of the World.⁶⁷

The "alien scum" were blamed for the labor strife. In response, the Canadian Parliament passed a law in 1920 requiring a permit for anyone to

⁶⁴ Walter Long to Lloyd George, January 9, 1919, HLRO Lloyd George MSS F/33/2/3, quoted in Andrew, *Her Majesty's Secret Service*, 232.

⁶⁵ Andrew, *Her Majesty's Secret Service*, 233-234.

⁶⁶ PRO CAB 24/96/252 starts a voluminous "Review of Revolutionary Movements in Foreign Countries, December 1919." While in retrospect the concerns that frightened the Cabinet seem overblown, their fears were real to them.

⁶⁷ PRO CAB 24/96/327.

possess any gun. The Canadian Parliament repealed the permit requirement for Canadian citizens for rifles and shotguns (though not for handguns) in 1921.⁶⁸

New Zealand adopted a mandatory firearms registration law in 1920 because returning servicemen had brought pistols and automatic weapons back to New Zealand. “Revolution had occurred in Russia and there was a fear that large scale industrial demonstrations or even riot could occur here.”⁶⁹ At least one scholar claims that Australia’s gun control laws, adopted on a state-by-state basis during the period 1921-32, were adopted for similar reasons.⁷⁰

How should the British government respond to these fears? There were differing proposals within the Cabinet. On February 27, 1919, Cabinet Secretary Thomas Jones wrote to Sir Maurice Hankey about the increasing problem of labor strife, and told how several Cabinet ministers responded to his proposals to defuse the concerns of the working classes with social policy changes. According to Jones, his proposal drew “rather long faces” from several Cabinet ministers: “It was blank nonsense to talk of a bagatelle like £71,000,000 — a cheap insurance against Bolshevism.”⁷¹

Crisis after crisis increased the Cabinet’s fears of revolution. When the

⁶⁸ David B. Kopel, *The Samurai, the Mountie, and the Cowboy: Should America Adopt the Gun Controls of Other Democracies?* (Buffalo, N.Y.: Prometheus Books, 1992), 141. Kopel suggests in an endnote that British and Dominion gun control efforts may also reflect the generalized revulsion at violence occasioned by the pointless bloodletting of World War I, Kopel, 176 n. 31. Malcolm, *To Keep And Bear Arms*, 172, makes much the same suggestion. In neither case do they provide a source for this idea, but see *Parliamentary Debates: Official Report*, House of Commons, 5th series, 1920, 130:657, for a Firearms Act opponent’s theory of why such a measure might be especially needed after a war.

⁶⁹ New Zealand Police Department, “Background to the Introduction of Firearms User Licensing Instead of Rifle and Shotgun Registration Under the Arms Act 1983” (Wellington, New Zealand: n.p., 1983), 2.

⁷⁰ Kopel, *The Samurai, the Mountie, and the Cowboy*, 195.

⁷¹ Jones, *Whitehall Diary*, 1:79-80.

Triple Alliance of miners, railway workers, and transport workers demanded higher wages and shorter hours in February 1919, Prime Minister Lloyd George appealed to patriotism, asserting that the government would fall if they called a general strike:

I feel bound to tell you that in our opinion we are at your mercy. The Army is disaffected and cannot be relied upon.... In these circumstances, if you carry out your threat and strike, then you will defeat us.⁷²

Throughout 1919, fear of revolution rose and fell, depending on the events of the moment, but the undercurrent of fear never went away. The Cabinet's Strike Committee responded to a railroad strike on September 26, 1919 with orders to the army to secure railroads and power stations against sabotage. The Committee also concluded that a "Citizen Guard" was now necessary to deal with the danger of a general strike. Though the Cabinet abandoned the Citizen Guard plans when the railroad strike was settled on October 5, 1919, this proposal — and the fears it represented — reappeared in 1920.⁷³ (Perhaps indicative of the Cabinet's belief in the power of armed civilians, the British government reacted with anger at a 1920 plan by the Soviet government to impose a "civic militia" of armed Polish workers on defeated Poland, for the apparent purpose of bringing about a Communist coup.)⁷⁴

As 1920 opened, the Cabinet's fear of Communist revolution was again on the rise. The January 7, 1920 report "The Labour Situation" from the Ministry of Labour warns of a leftist newspaper that

announces an attempt is to be made within the next few months to overthrow democratic government and to set up some form of 'Soviet' rule, by means of a "general strike," and anticipates that this strike will be accompanied by an upheaval in Ireland.⁷⁵

⁷² Andrew, *Her Majesty's Secret Service*, 234.

⁷³ Andrew, *Her Majesty's Secret Service*, 238-239.

⁷⁴ Andrew, *Her Majesty's Secret Service*, 266.

⁷⁵ PRO CAB 24/96/52.

The workers were also described as increasingly unwilling to listen to labor union leaders,⁷⁶ with the more radical labor newspapers distinguishing between “reactionary Trade Union officials” and radical parts of “political Labour.”⁷⁷ Director of Intelligence Thomson’s January 9, 1920 “Report of Revolutionary Organisations in the United Kingdom” warned that while miners were losing faith in the strike as a tool for achieving their ends, “There is abundant evidence that the great mass of Labour is drifting steadily to the Left.”⁷⁸ Cabinet Secretary Sir Maurice Hankey’s letter of January 17, 1920, to Jones discusses a Cabinet meeting about:

the industrial situation. C.I.G.S. [Chief of the Imperial General Staff] also is positively in a state of dreadful nerves on the subject. Churchill is the only one who is sane on this subject.... From a meeting yesterday evening I came away with my head fairly reeling. I felt I had been in Bedlam. Red revolution and blood and war at home and abroad!⁷⁹

While many of Thomson’s intelligence reports seem to fit into the concern about Communist revolution, others suggest that he did not consider this a likely occurrence — unlike the Cabinet ministers. Thomson’s “Report on Revolutionary Organizations in the United Kingdom” of January 22, 1920, acknowledged that reports were circulating in London “that a revolution is to be expected within the next two months.” But Thomson’s report also insisted “the minority that would like to see a sudden and violent revolution is ridiculously small.”⁸⁰ Instead, his concern was about “The flow of Bolshevik propaganda, which is very ably written, will inevitably be greatly increased when trade is opened with Russia....” Thomson proposed new legislation instead to deal with such propaganda; he worried more about the pen than

⁷⁶ PRO CAB 24/96/53.

⁷⁷ PRO CAB 24/96/52.

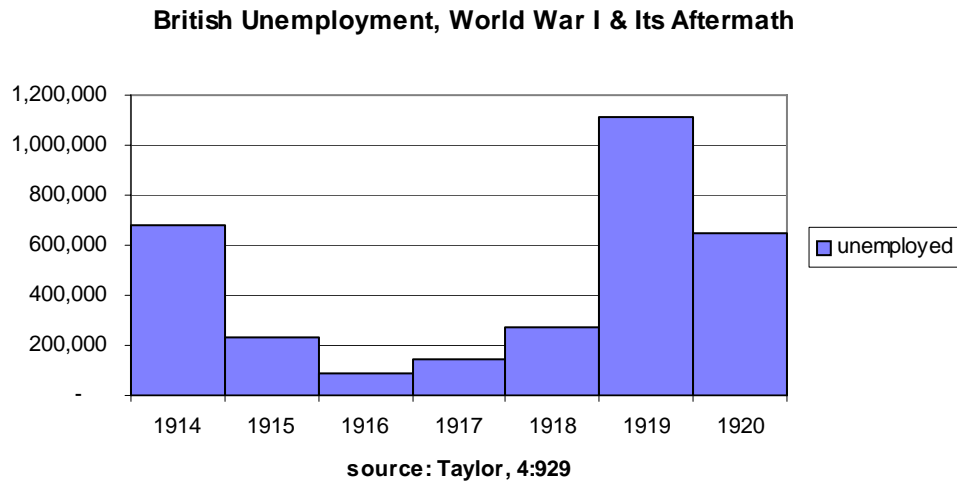
⁷⁸ PRO CAB 24/96/72.

⁷⁹ Jones, *Whitehall Diary*, 1:97.

⁸⁰ PRO CAB 24/96/315.

the sword.⁸¹

Another worrisome issue the January 7 Labour Situation report raised was unemployment among recently demobilized soldiers, “which is driving many of the more moderately-minded ex-Service men into the revolutionary camp.”⁸² The demobilization and reduction of war production produced a rapid increase in unemployment in 1919, only somewhat alleviated in 1920:⁸³



Thomson’s January 9, 1920 report also warns of the growth of the National Union of Ex-Service Men. The National Union was a radical faction of discontented veterans that was developing ties to more mainstream veterans’ organizations, as well as to officials of the Police Union.⁸⁴ The goal of the National Union, in the words of its national secretary, was to form “Sailors’, Soldiers’ and Workers’ Councils with a view to taking over the means of production, distribution and exchange and thereby freeing the workers from wage slavery and exploitation.”⁸⁵ Thomson’s “Report on

⁸¹ PRO CAB 24/96/316.

⁸² PRO CAB 24/96/71-2.

⁸³ A.J.P. Taylor, ed., *Purnell’s History of the 20th Century* (New York and London: Purnell, 1974), 4:929. The statistics for 1914 and 1915 come from a different series than 1916-1920, and may not be strictly comparable.

⁸⁴ PRO CAB 24/96/76.

⁸⁵ PRO CAB 24/96/77.

Revolutionary Organisations in the United Kingdom,” January 22, 1920, also warned of the close ties between the National Union, the Labour Party, and a supposed “Red Army” being organized in Reading by an “Ex-Lieutenant Nicholson.”⁸⁶

Why was there such concern about veterans? We can deduce something of the concerns of the Cabinet from secret reports about the weakness of the military. Sir Henry Wilson, Chief of the Imperial General Staff, issued a report titled: “Capacity of the Army to Assist the Civil Power in Industrial Disturbances.” The report warned in its somewhat ungrammatical cover memorandum:

[T]he whole question of the use to be made of the Army in any future internal trouble gives grave cause for anxiety. Not only will the Army be far too weak to give the full measure of assistance to the police necessitated by disturbances on a large scale.⁸⁷

After warning that the Army lacked the capacity to guard its own facilities without assistance from the civil authorities, Wilson also cautioned,

If it is called upon at an early stage to assist the Civil Authorities, it will be dispersed, and thus the last reserve in the hands of the Government will be dissipated.⁸⁸

Wilson believed that at least 40,000 troops would be needed to restore order in an emergency. By March, the British Army in Great Britain would be reduced to 25,000, many of them “young soldiers with little training, insufficient military discipline, very short of good and reliable non-commissioned officers....”⁸⁹ Most troubling of all to Wilson was that 40,000 troops assumed “an adequate police force is in existence,” an assumption that he specifically denied.⁹⁰

⁸⁶ PRO CAB 24/96/321-2.

⁸⁷ PRO CAB 24/96/248.

⁸⁸ PRO CAB 24/96/248.

⁸⁹ PRO CAB 24/96/249.

⁹⁰ PRO CAB 24/96/249.

From the covering memorandum on Wilson's report, it is clear that the problem of insufficient troops to restore order had been a concern of the Cabinet since at least November 18, 1919. In early January 1920, Sir Eric Geddes, Chairman of the Cabinet's Supply and Transport Committee gave an even more frightened description of the ability of police and army to protect the Government:

The Minister of Labour has reported that there is a possibility of a revolutionary outbreak in Glasgow, Liverpool, or London in the early spring, when a definite attempt may be made to seize the reins of Government. In normal circumstances the chances of success of such an attempt would probably be small, but the danger would, in my opinion, be serious if the attempt were made when the country's resources had already been taxed by the strain of a great industrial crisis, such as a strike of coal miners. It is not inconceivable that a dramatic and successful coup d'etat in some large center of population might win the support of the unthinking mass of labour, exasperated as the latter is by the increasing cost and difficulty of living.⁹¹

The Minister of Agriculture and Fisheries January 26, 1920, memorandum "Industrial Disturbances" echoed this concern: "the revolutionaries in this country have been pushing their propaganda, unhindered and unanswered, and perfecting their arrangements for a trial of strength in March or April."⁹²

The concerns about the disaffected veterans are now more understandable. A weak army of raw recruits might be successful against unarmed workers with no combat experience, but raw recruits might well break under fire from determined combat veterans.

To reinforce a weak and perhaps untrustworthy police force and army, Cabinet ministers had previously proposed a "citizen guard" of politically reliable men to fight against a Bolshevik revolution. Thomas Jones' notes from the February 2, 1920 conference tell us:

⁹¹ PRO CAB 24/96/311.

⁹² PRO CAB 24/96/349.

During the discussion Bonar Law so often referred to the stockbrokers as a loyal and fighting class until one felt that potential battalions of stockbrokers were to be found in every town.⁹³

Instead of the “Citizen Guard,” Permanent Home Secretary Sir Edward Troup proposed on January 17, 1920 to create a temporary volunteer force of demobilized soldiers to back up the police. He hoped that it would be possible to filter out those who might fight on the side of the insurgents.⁹⁴

More evidence of the Cabinet’s fears can be found in Hankey’s January 17, 1920 letter to Thomas Jones in which he describes the strategy he suggested to Prime Minister Lloyd George:

1. Make absolutely sure of your arms and munitions.
2. Prepare the cadres of your future organisation.
3. If and when trouble arises, you have only to hold up your little finger to get as many men as you require to ensure security. That is the moment to form your permanent organisation.⁹⁵

It appears that while Jones and Hankey believed that the risk of revolution was greatly exaggerated, many Cabinet ministers believed an attempt at armed revolution was imminent. Jones’ notes for the February 2, 1920 meeting about industrial unrest report Lloyd George “throughout played the rôle of taking the revolution very seriously....”⁹⁶ Jones seemed to think that while George regarded the concern as overblown, he was reluctant to say so to his ministers.

At the same meeting, Home Secretary Shortt, Adjutant-General Sir George Macdonogh, and Robert Munro, Secretary of State for Scotland, discussed the logistics of using the air force to suppress revolution.⁹⁷ The following exchange between Prime Minister Lloyd George and his Cabinet

⁹³ Jones, *Whitehall Diary*, 1:101.

⁹⁴ PRO CAB 24/96/312-4.

⁹⁵ Jones, *Whitehall Diary*, 1:98.

⁹⁶ Jones, *Whitehall Diary*, 1:99.

⁹⁷ Jones, *Whitehall Diary*, 1:99.

ministers shows the level of fear that drove the government. It is also the *only* stated reason for restrictive firearms licensing in the classified documents or memoirs that predates introduction of the Bill in Parliament — and the reason was fear of revolution:

The P.M. “You won’t get sabotage at the beginning of the strike.”

Roberts. “You will have to take sabotage at the beginning of the strike into account. There are large groups preparing for Soviet government.”

Eric Geddes. “You have got to reckon on the electric power stations being put out of order.”...

Macready. “On our information we do not run to the revolution yet. If there is an outbreak of strikes and if there is a sufficient force available, civil or military, to stop it *at once*, it will fizzle out. We were told today that 700 rifles were concealed in Liverpool. Supposing sabotage and violence get ahead it is very difficult to say how far they will go. We are taking private steps to secure the aid of a certain class of citizen.”...

Long. “The peaceable manpower of the country is without arms. I have not a pistol less than 200 years old. A Bill is needed for licensing persons to bear arms. This has been useful in Ireland because the authorities know who were possessed of arms.”

Shortt. “The Home Office has a Bill ready but in the past there have always been objections.”

Bonar Law. “All weapons ought to be available for distribution to the friends of the Government.”⁹⁸

There is no “smoking gun” to establish that this discussion on February 2, 1920, led to the introduction of the Firearms Act in the House of Lords less than two months later, on March 31.⁹⁹ Nonetheless, Home Secretary Shortt’s assertion before the House of Commons on June 8 that the bill was to disarm “criminals or weak-minded persons and those who should not have firearms”¹⁰⁰ seems ingenuous, at best.

Significantly, the manner in which the bill was brought to a vote in the

⁹⁸ Jones, *Whitehall Diary*, 1:100.

⁹⁹ *Parliamentary Debates*, House of Lords, new series, 39:815.

¹⁰⁰ *Parliamentary Debates: Official Report*, House of Commons, 5th series, 1920, 130:361-2.

Commons suggests that the Government did not want the bill carefully examined:

After its first reading in the Commons on June 1, 1920, it was scheduled for a second reading and full debate the following day. This was cancelled. Then, at 10:40 on the evening of June 8, the bill was brought back without warning and with two other bills scheduled for consideration in the few minutes remaining before adjournment. Only a handful of those members present were given copies of the text.¹⁰¹

M.P. Hogge complained, "I have only looked at the Bill within the last 10 minutes" because of how suddenly the bill was brought up — and at the end of the session.¹⁰² This attempt to ram the bill through led to vigorous objection, not only from those who opposed the bill on its own merits, but also from those angered by the attempt to sneak it past the Commons.

Many of the opponents pointed to the long history of the right to keep and bear arms in Britain. A very few argued that firearms in private hands were needed for personal protection. M.P. Kiley complained that if the goal was to disarm burglars, the Firearms Act would not be effective, since burglars would "burgle a place where they are kept in stock, and he could then get them in a wholesale way." Kiley went on to suggest that if Shortt's claimed purpose for the law was to disarm criminals, the bill should be limited to that purpose. In Kiley's view, "the Bill goes far beyond things of that kind."¹⁰³

Hogge complained that such discretion in license issuance would be applied in a discriminatory manner, based on class. While acknowledging that the conditions of Ireland might justify such action, he and other members of the Commons expressed concern if such discretion were allowed in Britain.¹⁰⁴ Kiley went further. Based on his experience with Home

¹⁰¹ Malcolm, *To Keep And Bear Arms*, 173.

¹⁰² *Parliamentary Debates: Official Report*, House of Commons, 5th series, 1920, 130:363-4.

¹⁰³ *Parliamentary Debates: Official Report*, House of Commons, 5th series, 1920, 130:368-9.

¹⁰⁴ *Parliamentary Debates: Official Report*, House of Commons, 5th series, 1920, 130:364-

Secretary Shortt, and his several predecessors during the war:

I regret any further powers being left to the present Home Secretary, because my experience of him has been that he has always taken the strictly legal view, and anything in the nature of a sympathetic view of his duties has been entirely absent. For that reason, I am unwilling to leave anything more to the right hon. Gentleman's unfettered discretion.¹⁰⁵

One of the most interesting objections was from M.P. Lieutenant-Commander Kenworthy. His argument was based on the Whig view of history, that arms in private hands acted as a restraint on abuses by the government:

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 quite recent times that that was given up. It has been a well-known object of the Central Government in this country to deprive people of their weapons.¹⁰⁶

After discussing Henry VII's attempt at disarming the great nobles, Kenworthy pointedly warned that disarming the population would not be an effective way of breaking popular control:

I do not know whether this Bill is aimed at any such goal as that but, if so, I would point out to the right hon. Gentleman that if he deprives private citizens in this country of every sort of weapon they could possibly use, he will not have deprived them of their power, because the great weapon of democracy to-day is not the halberd or the sword or firearms, but the power of withholding their labour. I am sure that the power of withholding his labour is one of which certain Members of our Executive would very much like to deprive him.¹⁰⁷

The Earl of Winterton responded that Kenworthy,

holds the most extraordinary theories of constitutional history and law. His idea is that the State is an aggressive body, which is endeavoring to deprive the private individual of the weapons which Heaven has given into his hands to fight against the State.... Holding these views, and believing that it is desirable or legitimate to arm themselves, with, as far as I understand his remarks, the ultimate intention of using their arms against the forces of the State, he objects to this Bill. There are other people who hold these views in this country, and it is because of the existence of people of that type that the Government has introduced this Bill....¹⁰⁸

5.

¹⁰⁵ *Parliamentary Debates: Official Report*, House of Commons, 5th series, 1920, 130:367-8

¹⁰⁶ *Parliamentary Debates: Official Report*, House of Commons, 5th series, 1920, 130:658.

¹⁰⁷ *Parliamentary Debates: Official Report*, House of Commons, 5th series, 1920, 130:658-9

¹⁰⁸ *Parliamentary Debates: Official Report*, House of Commons, 5th series, 1920, 130:662-

Winterton thus stated directly what Shortt had said in secret and contrary to Shortt's attempt to mislead Parliament.

In the ensuing exchange, Kenworthy reiterated that "the very foundations of liberty of the subject is that he can, if driven to do so, resist.... You can only govern with the consent of the people." Winterton responded that "I say it is intolerable that, at this time, such a doctrine should be preached in this House...."¹⁰⁹ When Kenworthy, a Liberal, asked Winterton, a Conservative, about the Ulster Protestants that had threatened rebellion before the war — with the encouragement of the Conservative Cabinet minister Bonar Law, now a part of the Cabinet that sought this law — Winterton refused to answer the question.¹¹⁰

Winterton also insisted "Before the War, the majority of the people in this country had almost forgotten that there were such things as firearms...."¹¹¹ Our examination of the popular literature from the pre-war period suggests otherwise.

The bill passed by a vote of 234-6. What significance is there in such a lopsided vote? First of all, Kenworthy was not simply a traditional English gentleman, preserving obsolete liberties for their own sake. Thomson's January 22, 1920 "Report on Revolutionary Organisations in the United Kingdom" devoted an entire heading and paragraph to Kenworthy:

The member for Hull has been very active in his own district during the recess. He has addressed many meetings and has been busy amongst the seafaring population, to whom he has promised his support for an 8 hour day. Under his influence the Hull Junior Liberal meetings have become practically socialist. He is anxious to obtain a passport for Moscow.¹¹²

3.

¹⁰⁹ *Parliamentary Debates: Official Report*, House of Commons, 5th series, 1920, 130:663.

¹¹⁰ *Parliamentary Debates: Official Report*, House of Commons, 5th series, 1920, 130:665.

¹¹¹ *Parliamentary Debates: Official Report*, House of Commons, 5th series, 1920, 130:664.

¹¹² PRO CAB 24/96/323.

This would suggest that Kenworthy's interest in widespread arms ownership was not entirely academic — and *might* explain why the vote in the Commons was so lopsided, where we would expect Kenworthy's views to have been at least as well known as they were to the Director of Intelligence.

What other evidence is there that would tell us something of the purpose of the Firearms Act of 1920? The Firearms Act licensed handguns and rifles. Concealable firearms have been the weapon of choice for criminals for a very long time, simply because they provide an element of surprise. The pre-war laws regulating the purchase and carrying of firearms applied only to handguns for that reason.

If the Firearms Act of 1920 had licensed only handguns, Shortt's claims before the Commons would be at least superficially plausible. If the Firearms Act of 1920 had included *all* firearms, it might be argued that it been drafted in an overly broad manner in an attempt to disarm criminals. But the inclusion of rifles (but not shotguns) in this licensing measure suggests that the fear expressed throughout more than two years of Cabinet discussions and reports drove this bill: *Bolshevik revolution*. In a revolutionary struggle against soldiers, a shotgun's value is limited because its range is limited. Soldiers armed with rifles can engage a insurgent force armed with shotguns at a distance of 100 to 150 yards with no fear of serious injury, even if the insurgents outnumber the soldiers by a significant margin. Soldiers confronting revolutionaries with *rifles*, however, would be at serious risk of injury or death, depending on the number or marksmanship of the revolutionaries.

Furthermore, the concern about radicalized veterans that play such a prominent part in secret reports throughout 1919 and 1920 is easy to understand as part of the fear of revolution. Contrary to the myth of the

Minuteman in the American Revolution, armed civilians have seldom played a significant effective part in any war against an organized military. The major deficiency of armed civilians is partly a shortage of modern weapons of mass destruction, partly a matter of training, and partly the psychologically toughening experience of combat itself.¹¹³

The Cabinet imagined that there were large numbers of radicalized veterans of World War I.¹¹⁴ Had this been the case, they would have had the training and combat experience to make them a serious fighting force, especially since, by the admission of General Wilson, much of the British Army in England at that time consisted largely of recent recruits without combat experience.

The Proximate Cause Identified

The evidence is clear: the proximate cause of the Firearms Act of 1920 was a fear of revolution, which the Cabinet believed might enjoy sufficient popular support to actually overthrow the lawful government. Home Secretary Shortt's statements to the Commons about disarming criminals, while a plausible explanation for the licensing of *handguns*, are not supported by Jones' diary or the secret Cabinet papers. There is no written

¹¹³ Col. Charles J. Dunlap, Jr., USAF, "Revolt of the Masses: Armed Civilians and the Insurrectionary Theory of the Second Amendment," *Tennessee Law Review* 62:3 [Spring, 1995] 656-73. The author agrees with Col. Dunlap's analysis of the deficiencies of militias and other irregular untrained forces engaged in direct military conflict with an organized military. The author also emphatically disagrees with many of Dunlap's conclusions with respect to the ability — and willingness — of the U.S. military to suppress a broad-based armed civilian revolt in the United States.

¹¹⁴ The Firearms Act provided a special exemption for "retired and reserve officers" who had kept their service sidearms. They were allowed to keep them without a license — but only if they had no ammunition, and if the local Chief Officer of Police did not object. Greenwood, *Firearms Control*, 49. It would appear that the Government mistrusted not only the demobilized lower ranks, but also retired officers.

evidence to substantiate Cabinet concerns about non-political crime,¹¹⁵ but enormous evidence that the Cabinet believed a violent revolution was imminent in which the police and military would be outnumbered by combat veterans. The functional analysis of the Firearms Act is consistent with this fear, and not consistent with a fear of non-political crime.

Based on what the Cabinet believed might happen, the decision to restrictively license rifles in the interests of self-preservation made perfect sense. It is, however, hardly a proud moment, for it suggests that the Cabinet believed that the masses were so opposed to the Government that large numbers of them were ready to rise up — and the Government was prepared to deny even a “true, ancient and indubitable right”¹¹⁶ of Englishmen in order to preserve a system of government that had lost much of its legitimacy in the pointless and brutal bloodshed of World War I.

British gun control at its heart was about fear of political change, not the use of guns by criminals.

¹¹⁵ The British Home Office provides little, relative to American practice, in the way of gun crime statistics. But, even in the U. S. with its 20,000 gun control laws (a number used by all participants in the U. S. debate) and battalions of social scientists, there is no proof that any gun law or series of laws has reduced violent crime. Even the federal government’s National Academy of Science agrees with this conclusion.

For example, despite a large body of research, the committee found *no credible evidence* that the passage of right-to-carry laws decreases or increases violent crime, and there is almost *no empirical evidence* that the more than 80 prevention programs focused on gun-related violence have had any effect on children’s behavior, knowledge, attitudes, or beliefs about firearms. The committee found that the data available on these questions are too weak to support unambiguous conclusions or strong policy statements. [emphasis added] http://www.nap.edu/openbook.php?record_id=10881&page=2, last visited January 23, 2008. See also, Gary Kleck and E. Brett Patterson, The Impact of Gun Control and Gun Ownership Levels on Violence Rates, 9 J. Quant. Crim. 249 (1993).

¹¹⁶ Joyce Lee Malcolm, *To Keep and Bear Arms: The Origins of an Anglo-American Right* Ch. 7 (Cambridge, Harvard University Press, 1994).

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