

POST-GOOD FRIDAY PEACE: BRINGING GUN POSSESSION IN NORTHERN IRELAND IN LINE

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I. INTRODUCTION

“Trick or treat?” In 1993, two gunmen shouted the familiar phrase before firing into the crowd gathered for a Halloween party at the Rising Sun pub, located in Greysteel, Ireland.¹ The gunmen belonged to the Ulster Defense Association (UDA),² a Unionist terror group favoring British rule.³ The attack was a reprisal for an earlier bombing by an opposing terrorist group.⁴ The attackers used an AK-47 assault rifle and a Browning nine-millimeter handgun,⁵ two of the most common firearms in the world.⁶ Nineteen people were shot during the brief spree, eight of whom ultimately died of their injuries.⁷ This concluded one of the bloodiest weeks of the entire Irish conflict.⁸

The Browning pistol used in the Greysteel Massacre can still be purchased legally in Northern Ireland today.⁹ With shootings,

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1. *Greysteel Tragedy 'Still Vivid'*, BBC NEWS (Oct. 30, 2003, 7:10 AM), http://news.bbc.co.uk/2/hi/uk_news/northern_ireland/3225855.stm.

2. *A History of the UDA*, BBC NEWS (Sept. 6, 2011, 8:33 AM), http://news.bbc.co.uk/2/hi/uk_news/northern_ireland/8442746.stm.

3. *Id.* Some activities of the opposing force to the Ulster Defense Association (UDA), the Irish Republican Army (IRA), will be discussed in more detail below. For more general information about the IRA, see A.R. OPPENHEIMER, *IRA: THE BOMBS AND THE BULLETS* 3 (2009) (discussing the creation of strategies used by the IRA).

4. *Greysteel Tragedy 'Still Vivid'*, *supra* note 1.

5. IAN S. WOOD, *CRIMES OF LOYALTY: A HISTORY OF THE UDA* 172 (2006).

6. See SMALL ARMS SURVEY, SMALL ARMS ID AND PSSM BEST PRACTICE CARDS, available at http://www.smallarmssurvey.org/fileadmin/docs/M-files/SmallArmsSurvey_ID_PlayingCards.pdf (last visited Aug. 29, 2013) (describing most common small arms in contemporary armed conflict and crime).

7. WOOD, *supra* note 5, at 172.

8. *Id.* at 173.

9. See The Firearms (Northern Ireland) Order, 2004, SI 2004/702 (N. Ir. 3), art. 45 (listing

bombings, and murders occurring in Northern Ireland on a regular basis during the entire second half of the twentieth century,¹⁰ it is perhaps unsurprising that many people living in Northern Ireland would want to be heavily armed. The laws restricting firearm possession throughout most of the United Kingdom are written in consideration of Northern Ireland's unique position. Many laws exempt Northern Ireland entirely from the controls applicable elsewhere within the United Kingdom.¹¹ Since the violence of 1993, Northern Ireland has made significant moves towards a peaceful resolution of the violence, removing some of the most compelling justifications for Northern Ireland's exemption from the firearms possession laws governing the rest of the United Kingdom.

With the reduction in violence, and the continued success of the peace process, it is time for the U.K. Parliament to take concrete steps to reduce the number of firearms that can be used for criminal purposes, and eliminate certain categories of weapons which have no use other than targeting people. The pistol provisions of the Firearms (Northern Ireland) Order of 2004 (2004 Order), which controls firearms possession within Northern Ireland, should be amended in order to bring them in line with the restrictions on pistols in place throughout the United Kingdom. More specifically, the 2004 Order should be amended to regulate the current free trade and nearly unrestricted possession of handguns in Northern Ireland. Additionally, the 2004 Order should be amended to create a bright line bar to owning .50 caliber rifles. It is important to note that this proposal does not perfectly conform with existing U.K. law, but is rather a restriction on the category of weapons most frequently used in criminal activities, and in some respects is more restrictive than current U.K. law. Under this proposal, the provisions within the Firearms (Amendment) Act of 1997 relating to pistols should be applied directly to Northern Ireland, with the addition of a provision restricting the possession of .50 caliber rifles. Additionally, the Firearms Purchase Scheme, which allows the Northern Ireland Office (NIO) to eliminate weapons on the market by buying them, should be reinstated in Northern Ireland to provide a fair means to

weapon characteristics that are subject to general prohibition).

10. See, e.g., WOOD, *supra* note 5, app. B.

11. Compare The Firearms (Northern Ireland) Order, 2004, SI 2004/702 (N. Ir. 3) (providing a unique scheme for Northern Ireland, including the right to possess certain firearms), with Firearms (Amendment) Act, 1997 (governing the rest of the United Kingdom which heavily restricts firearms possession, including forbidding home possession). The two statutes will be compared extensively *infra*, as the differences between the two are the central crux of this analysis.

dispose of legal but unwanted firearms.

Part II of this Note includes an explanation of recent events in Irish history influencing the law governing firearms. It then discusses the evolution of English Arms-Control law, from its initial laws mandating weapons possession to the gradual, but dramatic shift to the modern state of the law in which firearms possession in England is tightly restricted while gun possession in Ireland is relatively unregulated. Part III evaluates the differences between these two different bodies of law, proposes a series of changes intended to create greater conformity between the two, and explains why these changes should be implemented, namely, because they create greater protections for the people of Northern Ireland. Finally, Part IV provides a brief overview of the arguments and rationales presented, while considering the broader implications of reducing the number of firearms present in Northern Ireland and limiting access to certain kinds of particularly deadly firearms.

II. BACKGROUND

A. *Recent History of the Conflict in Ireland*

The historical origins of the Northern Irish conflict involve religious and political violence that predates the twentieth century.¹² Nonetheless, the most recent outbreak of violence in Northern Ireland originates partially from the 1920–22 decision by the U.K. Parliament to segregate the thirty-two counties of Ireland into two parts.¹³ The twenty-six predominantly Catholic counties became the “South,” while the six predominantly Protestant counties formed Northern Ireland.¹⁴ The South left the United Kingdom and became the Irish Free State,¹⁵ remaining a dominion of the United Kingdom until 1948, when it left the British Commonwealth entirely to become the modern day Republic of Ireland.¹⁶ Northern Ireland, however, remains a part of the United

12. See AARON EDWARDS & CILLIAN MCGRATTAN, *THE NORTHERN IRELAND CONFLICT: A BEGINNER'S GUIDE* 2–3 (2010).

13. *Id.*

14. *Id.*

15. Brigid Hadfield, *The United Kingdom as a Territorial State*, in *THE BRITISH CONSTITUTION IN THE TWENTIETH CENTURY* 585, 602 (Vernon Bogdanor ed., 2006). Though the Irish Free State remained a dominion of the United Kingdom, the power exerted by the United Kingdom over it dwindled rapidly during the interwar period until the relationship dissolved entirely during post-World War II period.

16. *Id.* at 606–07.

Kingdom.¹⁷

In Northern Ireland, Catholic perceptions of inequitable distribution of power between Protestants and Catholics at the beginning of the twentieth century soon led to the creation of numerous paramilitary and terrorist organizations, which divided into two opposing groups.¹⁸ The Unionists, also known as Loyalists, supported remaining a part of the United Kingdom and were composed almost exclusively of Protestants.¹⁹ The Nationalists, also known as Republicans, favored leaving the United Kingdom and creating a unified Irish state by joining with the Republic of Ireland.²⁰ The largest and most heavily armed Nationalist group was the Irish Republican Army (IRA).²¹ The two groups waged an effective guerrilla war against one another, with the violence culminating in the long period between 1966 and 2003, known simply as “The Troubles.”²² During The Troubles, 3,530 people were killed, and another 40,000 were seriously injured.²³ At the high point in 1972, the IRA conducted an average of four bomb attacks per day.²⁴ Both sides committed a number of high-profile killings and bombing attacks, such as the Greysteel Massacre,²⁵ the Bloody Sunday Massacre,²⁶ and the Canary Wharf Bombing.²⁷

The prolonged cycle of violence also featured numerous attempts to

17. *Id.* at 610.

18. EDWARDS & MCGRATTAN, *supra* note 12, at 3–5. The UDA eventually became the largest Unionist force at work in Northern Ireland. *See* WOOD, *supra* note 5, at 1 (tracing how violence in early 1970s provided fertile ground for the development of the UDA).

19. *See* EDWARDS & MCGRATTAN, *supra* note 12, at 3–5.

20. *See id.* at 4.

21. *See* OPPENHEIMER, *supra* note 3, at 1–2 (describing enormity of IRA arsenal upon decommission).

22. *See id.* at 4–5.

23. Malcolm Sutton, *Index of Deaths from the Conflict in Ireland*, CAIN: SUTTON INDEX DEATHS, <http://cain.ulst.ac.uk/sutton> (last visited Sept. 2, 2013). While 3,530 may not seem like an extremely large number of people, the population of Northern Ireland is relatively small, approximately 1.6 million. N. IR. STATISTICS & RESEARCH AGENCY (NISRA), NORTHERN IRELAND CENSUS (2001), available at <http://www.nisra.gov.uk/Census/2001%20Census%20Results/PopulationReport.html>.

24. OPPENHEIMER, *supra* note 3, at 28.

25. *See Greysteel Tragedy ‘Still Vivid’*, *supra* note 1 (recounting how two Ulster Freedom Fighters opened fire in a bar killing eight people).

26. *See* EDWARDS & MCGRATTAN, *supra* note 12, at 24. On January 30, 1972, an exchange of gunfire occurred between the IRA and the British Army during an otherwise peaceful political rally, culminating in the British army shooting thirteen unarmed civilians, which served as a rallying point for the Republican cause for decades.

27. *See* OPPENHEIMER, *supra* note 3, at 328. The IRA detonated a 1,500 kg explosive on February 6, 1996. *Id.* The bomb blast killed two people, injured forty, and caused roughly £100 million in damage, leaving a crater three meters deep and ten meters wide. *Id.*

end or mitigate the conflict,²⁸ such as the Firearms Purchase Scheme,²⁹ though the political posturing of either the Unionists or the Nationalists often foiled these attempts. A gradual turn in public opinion against guerilla fighters of all types in the 1980s and 1990s led to serious attempts to broker a peace agreement that would last.³⁰ After a long series of negotiations and a large number of frequently broken cease-fires,³¹ the various Irish political parties on either side of the conflict and the British government under Tony Blair signed the Good Friday Peace Accords (the Accords) on Good Friday, 1998.³² The Accords provided for the right of self-determination in Northern Ireland—if a majority of Northern Irish residents voted to leave the United Kingdom or join the Republic of Ireland, the U.K. government would recognize that decision.³³ The Accords also provided for the disarmament of paramilitary groups on both sides, and for power-sharing talks between Unionists and Republicans.³⁴ Although Unionists subsequently violated the requirement to enter into power-sharing talks,³⁵ the two groups agreed to a power-sharing regime in 2007, which, while not always successful, has nonetheless kept the battle firmly in the political realm, aside from a few isolated incidents.³⁶

B. *Early English Arms Control Duties, Rights, and Laws*

Arms regulation has a long history in the United Kingdom.³⁷ In early English history, possessing arms was not a legal right—it was a legal

28. See OPPENHEIMER, *supra* note 3, at 30 (analyzing how the IRA's overestimation of military efficacy hamstrung efforts to resolve conflict).

29. NORTHERN IRELAND OFFICE, SECURITY AND LEGACY GROUP, FIREARMS PURCHASE SCHEME, paras. 1–2, 6 (Nov. 9, 2012), available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/136053/firearms_purchase_scheme-2-doc.pdf. The Firearms Purchase Scheme allowed the government to purchase “personal protection weapons” held by private citizens, so long as the weapons would not be replaced, as a means of reducing the number of weapons in circulation. The Firearms Purchase Scheme ended on December 31, 2012.

30. See OPPENHEIMER, *supra* note 3, at 30–31, 37.

31. See generally EDWARDS & MCGRATTAN, *supra* note 12, at 164.

32. Jeffrey A. Sluka, *Silent but Still Deadly: Guns and the Peace Process in Northern Ireland*, in OPEN FIRE: UNDERSTANDING GLOBAL GUN CULTURE 56, 63 (Charles Fruhling Springwood ed., 2007).

33. *Id.*

34. *Id.*

35. *Id.* at 63. Specifically, they refused to speak with Sinn Fein, the Republican political party, until the IRA completely disarmed. *Id.*

36. EDWARDS & MCGRATTAN, *supra* note 12, at 167–68.

37. JOYCE LEE MALCOLM, TO KEEP AND BEAR ARMS: THE ORIGINS OF AN ANGLO-AMERICAN RIGHT 1 (1994).

obligation.³⁸ All male citizens were required to keep and train with weapons on a regular basis to enable them to defend the realm as a militia if a foreign invasion occurred.³⁹ Many common citizens found this duty onerous and expensive because it required citizens to not only train during hours that would otherwise be spent farming or trading, but also to fund militia activities through taxes.⁴⁰ Notably, after the Church of England split from the Catholic Church during the English Reformation, Catholics continued to be charged a tax to support the militia, but were not allowed to train with them.⁴¹ Although Catholics were allowed to possess private arms for their own defense, Catholics were usually disarmed during times of war in fear that they would rise up and overthrow the Protestant Crown.⁴²

To keep his subjects prepared to defend the realm, Henry VIII passed an act requiring:

[T]hat butts be made . . . in every city, town, and place, According To The Law of Ancient Time Used, and that said inhabitants, and dwellers in every of them, be Compelled To Make and Continue Such Butts, upon pain to forfeit, for every three months so lacking, 20 shillings. And that the Said Inhabitants Shall Exercise Themselves With Long-Bows In Shooting At The Same⁴³

At that time, the Crown distrusted the still relatively new but increasingly popular firearm.⁴⁴ Despite the Crown's keen interest in maintaining an armed and trained civilian population, certain categories of weapons were heavily restricted due to their high rate of usage by robbers on the road.⁴⁵ Specifically, the crossbow and handgun—defined as any firearm with a barrel shorter than a yard—were forbidden to anyone who made less than £100 annually.⁴⁶ This restriction was aimed at preventing easily concealed weapons from

38. *Id.*

39. *Id.* at 2. Britain did not create a standing army until the late seventeenth century or a professional police force until the nineteenth century. Until then, policing and fighting duties fell to ordinary citizens organized into semi-trained militia bands. *Id.*

40. *Id.* at 3–4.

41. *Id.* at 4.

42. JOYCE LEE MALCOLM, GUNS AND VIOLENCE: THE ENGLISH EXPERIENCE 51 (2002).

43. MALCOLM, *supra* note 37, at 6. The act goes on to require practice at minimum once every three months. *Id.*

44. *Id.* The Crown also required every seven-year-old boy to be provided with a small bow and two arrows with which to practice on pain of a continuing monthly fine of six shillings, eight denarius if the family neglected this civic duty. *Id.* This was a significant fine at the time and virtually assured compliance. *Id.*

45. MALCOLM, *supra* note 42, at 49.

46. David T. Hardy, *Armed Citizens, Citizen Armies: Toward a Jurisprudence of the Second Amendment*, 9 HARV. J.L. & PUB. POL'Y 559, 566–67 (1986).

reaching the general populace to reduce the use of these weapons in armed robbery.⁴⁷

As time passed, the bow fell into disuse even though the law compelling ownership and practice with the longbow remained in place.⁴⁸ The Crown eventually authorized the practice of firearms as well.⁴⁹ Common citizens mostly obeyed the law requiring bow ownership in fear of the large penalty, but they rarely practiced as the law required.⁵⁰ Moreover, judges and civil magistrates generally did not attempt to enforce the laws.⁵¹ Civil magistrates also did very little to prevent common citizens from acquiring firearms that they were ostensibly forbidden from owning, finding “little harm” in it.⁵² For example, between 1660 and 1677, one circuit judge frequently instructed grand juries on acts they were to treat as crimes, such as illegal hunting, but he never mentioned the crime of owning an illegal weapon.⁵³ Whenever an illegal weapon was confiscated for improper use, however, the courts were careful to maintain the distinction between “legal” and “illegal,”⁵⁴ describing the latter as “noe muskett or such as is used for defence of the realm.”⁵⁵

The English Civil War and the Glorious Revolution ultimately transformed the “duty” to own a firearm into a “right” to own a firearm.⁵⁶ Until that point, people had the obligation, but not the right, to own weapons, and the Crown could disarm any person at any time.⁵⁷ The upper classes utilized this fact to pass a law in 1671, disarming for the first time a majority of the common people, ostensibly to ensure that ordinary citizens were not engaging in hunting, which was a privilege reserved solely for the upper classes.⁵⁸ The famed William Blackstone would comment much later that while game laws did prevent hunting, they also disarmed the populace, “a [reason] oftener meant than

47. MALCOLM, *supra* note 42, at 49–50.

48. MALCOLM, *supra* note 37, at 6–7.

49. *Id.*

50. *Id.* at 7.

51. *Id.*

52. MALCOLM, *supra* note 42, at 50.

53. *Id.* at 50–51.

54. *Id.* at 50.

55. WILLIAM R. FISHER, THE FOREST OF ESSEX: ITS HISTORY, LAWS, ADMINISTRATION AND ANCIENT CUSTOMS, AND THE WILD DEER WHICH LIVED IN IT 215 (1887).

56. See MALCOLM, *supra* note 42, at 62–63 (explaining the seventeenth century was an era “in which an Englishman’s right to have ‘arms for his defence’ was proclaimed”).

57. See MALCOLM, *supra* note 37, at 11–13.

58. *Id.* at 12.

avored.”⁵⁹ This action brought great popular attention to the issue of arms possession, especially during the English Civil War and the following years of violence.⁶⁰ During the war-torn period, citizens grew increasingly irritated with the government’s intermittent passage of laws ordering the disarmament and then the rearmament of parts of the population.⁶¹ At the conclusion of the various upheavals in England during the seventeenth century, Parliament invited William and Mary of Orange to become the new monarchs, contingent upon William of Orange signing the Bill of Rights of 1689.⁶² In accepting the Crown, King William signed the act into law, establishing the English Bill of Rights, which included the possession of arms as a right for all English Protestants.⁶³

C. *A Gradual Transition of the Law Governing Firearms*

Among the various provisions of the English Bill of Rights of 1689 is a section declaring the right of “the subjects which are Protestants [to] have arms for their defence suitable to their conditions and as allowed by law.”⁶⁴ This declaration is set alongside declarations protecting free elections, freedom of speech, and freedom from cruel and unusual punishments.⁶⁵ Commentators have expressed the viewpoint that this is not actually an expansion of the rights of English citizens, but rather a codification of a right created by long-standing, ancient practice.⁶⁶ Other scholars have argued that the Bill carefully laid out the rights of English people, and “more narrowly circumscribed and more exactly

59. 2 WILLIAM BLACKSTONE, COMMENTARIES,*408, *412 (retrieved from The Avalon Project: Documents in Law, History and Diplomacy, Lillian Goldman Law Library, <http://avalon.law.yale.edu>).

60. See generally MALCOLM, *supra* note 37, at 16–24 (explaining the history behind the general unease over the distribution of weapons). The English Civil War raged from 1642 to 1651, with upheavals continuing for several years as the new government tried to stabilize the nation. *Id.*

61. *Id.* at 22. A group of 1,500 farmers, dissatisfied at being used by the various political factions, declared that they would “obey neither King nor Parliament,” but would “stand upon their own guard for the security of their persons and estates.” *Id.* The group grew as the conflict between King and Parliament carried on until they numbered between fifteen thousand and sixteen thousand and eventually helped to overthrow the Crown, which had sent soldiers against them in an attempt to collect taxes. *Id.*

62. See *id.* at 114–16.

63. See *id.* at 115–17.

64. English Bill of Rights, 1689, 1 W. & M., c. 2 (retrieved from The Avalon Project: Documents in Law, History and Diplomacy, Lillian Goldman Law Library, <http://avalon.law.yale.edu>).

65. *Id.*

66. MALCOLM, *supra* note 37, at 121.

defined” the powers that the king could exert over those rights, including the right to bear arms.⁶⁷ Despite the wording of the English Bill of Rights, even Catholics were understood to have the right to a limited number of weapons in their defense, though no more than was necessary to protect their homes and property.⁶⁸ Over the course of the next century, English courts interpreted this right to mean an individualized right to possess firearms.⁶⁹ In the case of *Wingfield v. Stratford and Osman*, the court concluded that where a weapon was not used in illegal hunting or other prohibited activity, the weapon could not be confiscated.⁷⁰

In 1780, during the American Revolutionary War, the chief legal advisor of London considered the legality of citizens bearing arms and forming armed groups for themselves.⁷¹ He surmised as follows:

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 . . . and that right, which every Protestant most unquestionable [sic] possesses, *individually*, may, and in many cases *must*, be exercised collectively[.]⁷²

By the end of the eighteenth century, the individual right to bear arms was well established.⁷³ At the beginning of the nineteenth century, England began a long, slow shift in its perceptions of the right to bear arms and concerns for public safety.⁷⁴ Thousands of now unemployed soldiers were returning home from the French Revolution, and there were concerns of popular uprisings taking place in the aftermath of the numerous revolutions on the continent.⁷⁵ A meeting of a group of workers protesting an unpopular law and insisting on parliamentary reform at St. Peter’s Fields gave life to fears of imminent revolution. Civil magistrates confronted the workers and ordered them to disperse.⁷⁶ When the crowd refused, the magistrates panicked and opened fire,

67. *Id.*

68. *Id.* at 123

69. *See id.* at 129.

70. *Id.*

71. MALCOLM, *supra* note 42, at 88 (emphasis in the original).

72. *Id.*

73. *See id.*

74. *See id.* at 90–91.

75. *Id.* at 92–95.

76. *Id.* at 95.

killing twelve and wounding hundreds.⁷⁷

This event, which became known as Peterloo, started an intense parliamentary discussion, culminating in the passage of several laws, two of which relate to arms and arms control.⁷⁸ The Unlawful Drilling Act, which is still in force today,⁷⁹ forbids any unauthorized meetings for the purpose of military drilling or training as a threat to the peace.⁸⁰ Enacted at the same time, the Seizure of Arms Act authorized magistrate judges in “certain disturbed Counties” to order the seizure of arms caches they believed were being held for purposes that threatened the general public.⁸¹ While there was still a requirement for some evidence to justify the action, the testimony of a single witness was sufficient to justify the seizure.⁸²

The establishment of a police force across the United Kingdom in 1856, replacing a failing militia in investigating and preventing domestic crime, further undermined the necessity of widespread arms possession.⁸³ In 1870, Parliament took concrete steps towards the broad regulation of firearms, passing the Gun License Act.⁸⁴ The Gun License Act imposed a tax of ten shillings on every privately owned firearm in the United Kingdom that was not kept exclusively within the confines of the home or its curtilage.⁸⁵ It also specifically provided that any right granted to carry a firearm outside the home is not absolute and may be restricted by any future law.⁸⁶ While the Gun License Act was presented to the public initially as a means of increasing revenue, the chancellor frankly stated:

The object of the bill is to check lawless habits. In answer to those who say it is a sign of freedom that the lower classes should go armed, I say it is the greatest proof of the absence of freedom when every man goes armed. What is the use of civilized institutions, of assemblies like this if every man is to be left the avenger of his own quarrel?⁸⁷

77. *Id.*

78. *Id.* at 95.

79. *Id.* at 95–96.

80. Unlawful Drilling Act, 1819, 60 Geo. 3 & 1 Geo. 4, c. 1 (Eng.).

81. MALCOLM, *supra* note 42, at 96.

82. *Id.*

83. *See id.* at 111.

84. *Id.* at 117.

85. The Gun License Act, 1870, 33 & 34 Vict., c. 57, §§ 3, 7 (Eng.).

86. *Id.* § 12.

87. MALCOLM, *supra* note 42, at 119.

D. Modern English Firearms Control

After the passage of the Gun License Act, Parliament considered several further restrictions on the use of pistols until ultimately passing the Pistols Act of 1903, the first firearms legislation of the twentieth century.⁸⁸ The Pistols Act of 1903 was modest in scope, restricting the sale of pistols to anyone under the age of eighteen who had not obtained a license, anyone who was drunk at the time of attempted purchase, or anyone who was insane.⁸⁹ The Pistols Act of 1903 defined “pistol” as a firearm with a barrel length shorter than nine inches.⁹⁰ The Pistols Act of 1903 also specifically exempts Northern Ireland from its affects, marking a distinct break in the firearms law governing Northern Ireland compared with the rest of the United Kingdom.⁹¹

The largest shift in British firearms legislation occurred after the end of WWI.⁹² In reaction to massive bloodshed on the battlefield, and in light of millions of soldiers returning home from the war and the developing civil war in Ireland, Parliament passed the Firearms Act of 1920, which removed the traditional right to bear arms, by a vote of 254 to 6.⁹³ The Firearms Act of 1920 provided that anyone who wished to own a firearm or ammunition of any kind had to apply for a firearms certificate.⁹⁴ The application was filed with the local chief of police, who would only issue the certificate if the individual could show “a good reason” for possessing a firearm.⁹⁵ Initially, application for a pistol certificate for the purposes of personal protection was allowed, but this later became disfavored as the police concluded that pistols at home are often a danger to the occupants.⁹⁶

While gun ownership increased during WWII as the United Kingdom prepared for an anticipated Nazi invasion, the postwar era saw concerted efforts to reduce the number of firearms in use in the United Kingdom.⁹⁷ The 1968 Firearms Act was essentially an updated version of the Firearms Act of 1920, with additional provisions on the issuance

88. *Id.* at 136.

89. The Pistols Act, 1903, 7 Edw., §§ 3–4 (Eng.).

90. *Id.* § 2. This had the unintended effect of greatly increasing the number of pistols produced with barrels longer than nine inches. See MALCOLM, *supra* note 42, at 136.

91. The Pistols Act, § 9.

92. MALCOLM, *supra* note 42, at 139–41.

93. *Id.* at 141, 148.

94. Firearms Act, 1920, 10 & 11 Geo. 5, c. 43, § 1 (Eng.).

95. *Id.*

96. MALCOLM, *supra* note 42, at 155–56.

97. *Id.* at 159.

of shotgun certificates.⁹⁸ Two subsequent amendments in response to violent tragedies greatly increased the coverage of the 1968 Firearms Act.⁹⁹

The first tragedy occurred in August 1987 when Michael Ryan armed himself with an AK-47 and a pistol, both purchased legally, and went on a killing spree in the town of Hungerford, shooting and killing sixteen people, including a number of children, before committing suicide.¹⁰⁰ In response, Parliament passed the Firearms (Amendment) Act of 1988.¹⁰¹ The Firearms (Amendment) Act of 1988 tightened restrictions on owning shotguns, which had until then been available for ownership after the applicant passed a cursory character and fitness examination,¹⁰² but now under the Firearms (Amendment) Act of 1988 required a “good reason” for ownership of a shotgun (the same standard governing restrictions on other firearms).¹⁰³ Parliament enacted its tightest restriction, and the current version of the Firearms Act, in 1997, following the Dunblane Massacre.¹⁰⁴ The current version of the bill restricts handgun possession to weapons that are no larger than .22 caliber.¹⁰⁵ The Act also requires any such handguns to be stored in a licensed handgun club, not at home.

E. Irish Arms Control

Under the current statutory regime, firearm possession in Ireland is not governed by the Firearms Act and its amendments, but rather by the Firearms Order (Northern Ireland) of 2004 (2004 Order).¹⁰⁶ The 2004 Order requires that all holders of firearms in Northern Ireland have a valid certificate issued by the Chief Constable for each firearm in their possession.¹⁰⁷ Like the Firearms Act of 1920, the 2004 Order additionally allows for the issuance of rifle certificates to individuals as young as sixteen.¹⁰⁸ The only kinds of rifles forbidden by the 2004

98. *Id.* at 199.

99. *Id.* at 200.

100. *How a Gun Massacre Changed Britain*, BBC NEWS (Dec. 7 2004, 10:57 AM), http://news.bbc.co.uk/2/hi/uk_news/magazine/4075055.stm.

101. MALCOLM, *supra* note 42, at 201–02.

102. *Id.* at 202.

103. Firearms (Amendment) Act, 1988, c. 45, § 3 (Eng.).

104. MALCOLM, *supra* note 42, at 203–05. In 1996, Thomas Hamilton entered a primary school in Dunblane, Scotland, carrying a legally purchased firearm, murdered sixteen school children and their teacher, and wounded thirteen other people before killing himself. *Id.*

105. Firearms (Amendment) Act, 1997, c. 5, § 11 (Eng.).

106. See The Firearms (Northern Ireland) Order, 2004, SI 2004/702 (N. Ir. 3).

107. *Id.* para. 3.

108. See Firearms Act, 1920 (Eng.); The Firearms (Northern Ireland) Order, 2004, SI

Order are auto-loading or pump action rifles larger than .22 rimfire caliber.¹⁰⁹ The 2004 Order does not restrict automatic pistols, but it forbids revolver pistols that are larger than nine millimeters.¹¹⁰ Pistols are identified as firearms with barrels shorter than 60.96 centimeters, or a total length less than 102 centimeters.¹¹¹ The restrictions on pistols are roughly parallel to the 1968 Firearms Act prior to its amendments, which allowed for the possession of similarly described automatics and revolvers.¹¹² Finally, shotguns must be at least 102 centimeters in length, with a barrel at least 60.69 centimeters long, but there is no restriction placed on the gauge.¹¹³

In addition to the restrictions placed on firearms possession in Northern Ireland, the Northern Ireland Office (NIO) previously operated the Firearms Purchase Scheme (FPS) to reduce civilian stockpiles of legal weapons and the overall number of weapons present in Northern Ireland.¹¹⁴ The FPS originally operated by allowing private citizens to sell their weapons to licensed firearms dealers, who could then sell excess weapons directly to the government.¹¹⁵ In its original version, at the height of the Troubles in the 1970s, the FPS was compulsory, requiring arms dealers to sell second-hand weapons to the government in order to remove them from the market.¹¹⁶ Each firearm so sold was evaluated by a government expert to determine the price the government would pay.¹¹⁷

Starting in the 1980s, during a lull in the violence, the FPS was changed to give discretion to licensed dealers—they had the option of selling excess weapons to the government or trying to sell them on the open market, but the program was restricted solely to forfeited weapons and would not be replaced.¹¹⁸ Finally, in 2001, NIO again changed the law to allow only for the government purchase of weapons held under a personal protection certificate.¹¹⁹ In 2011, the NIO decided to end the FPS on December 31, 2012, and instead allow the market to provide for

2004/702 (N. Ir. 3), art. 7, para. 1.

109. The Firearms (Northern Ireland) Order, 2004, SI 2004/702 (N. Ir. 3), art. 45, para. 1(c).

110. *Id.* art. 45, para. 1(d).

111. *Id.* art. 45, para. 1(c).

112. *See* Firearms Act, 1968, c. 27 (Eng.).

113. The Firearms (Northern Ireland) Order, 2004, SI 2004/702 (N. Ir. 3), art. 45, para. 1(c).

114. NORTHERN IRELAND OFFICE, SECURITY AND LEGACY GROUP, *supra* note 29, para. 2.

115. *Id.* paras. 2–4.

116. *Id.*

117. *Id.* para. 2.

118. *Id.* para. 4.

119. *Id.*

weapons disposal.¹²⁰

F. *Comparison of England, Wales, and Scotland with Northern Ireland*

Currently, there are approximately 380,000 total civilian firearms in Northern Ireland.¹²¹ This averages out to 21.9 firearms per 100 persons.¹²² For comparison, there are an estimated 3.4 million firearms in England and Wales combined, or roughly 5.5 firearms per 100 persons.¹²³ In both the broader United Kingdom and within Northern Ireland, firearm possession requires a certificate, without exception.¹²⁴ Only the local chief of police may issue the firearms certificate, and may do so only for “good cause.”¹²⁵ Critically, however, “personal-defense” will satisfy the good cause requirement for persons within Northern Ireland, but will not be considered satisfactory within England, Scotland, or Wales.¹²⁶

Under the laws governing the majority of the United Kingdom, all pistols are forbidden other than single fire .22 caliber pistols possessing barrels that are at least nine inches long.¹²⁷ Even then, the pistol must be stored at a local, authorized pistol club.¹²⁸ In contrast, both autoloading and revolver-type pistols are legal within Northern Ireland, though revolvers are restricted to nine-millimeter ammunition.¹²⁹ There is no restriction placed on where they must be stored other than a requirement that they are kept in a locked container while not in use.¹³⁰ Under both legal regimes, autoloading and pump-action rifles are restricted to .22 caliber, with no other restrictions on rifles outside of

120. *Id.* para. 5.

121. Aaron Karp, *Completing the Count: Civilian Small Arms*, in SMALL ARMS SURVEY 2007: GUNS IN THE CITY, Annex 4 (2007), available at <http://www.smallarmssurvey.org/?id=180>.

122. *Id.*

123. Karp, *supra* note 121, at 47. As a broader comparison, the United States has an estimated 270 million firearms, a rate of roughly ninety per one hundred persons. *Id.*

124. *Compare* The Firearms (Northern Ireland) Order, 2004, SI 2004/702 (N. Ir. 3), art. 3, with Firearms Act, 1968, c. 27, § 1(a) (Eng.).

125. *Compare* The Firearms (Northern Ireland) Order, 2004, SI 2004/702 (N. Ir. 3), art. 5, with Firearms Act, 1968, c. 27, § 7 (Eng.).

126. *See* The Firearms (Northern Ireland) Order, 2004, SI 2004/702 (N. Ir. 3), art. 5; MALCOLM, *supra* note 42, at 155–56.

127. Firearms (Amendment) Act, 1997, c. 5, § 1 (Eng.).

128. *Id.*

129. *See* The Firearms (Northern Ireland) Order, 2004, SI 2004/702 (N. Ir. 3), art. 45. An autoloader is defined as any weapon which automatically chambers a new round into the chamber from a magazine after the trigger is pulled. *Id.* art. 2. A revolver has a rotating cylinder that brings a new round into alignment after every trigger pull. *Id.*

130. *Id.*

that category, such as on bolt-action rifles.¹³¹ In all cases, fully automatic or burstfire weapons, defined in the Firearms Act of 1988 and the 2004 Order as “any firearm which is so designed or adapted that two or more missiles can be successively discharged without repeated pressure on the trigger,” are completely prohibited.¹³²

In the years since the signing of the Good Friday Accords in 1998, the rate of violent crime, including violent crimes involving firearms, has fallen across the United Kingdom.¹³³ In England and Wales, use of firearms in crimes declined sharply from 24,094 incidents in 2003–2004, to 11,227 incidents in 2010–2011, a decrease of fifty-three percent.¹³⁴ Northern Ireland has seen similar reductions in violent crime.¹³⁵ At the height of the Troubles in 1972, there were 393 recorded homicides in Northern Ireland.¹³⁶ By 2004, that number declined to forty-two homicides, and in 2010, the number slipped down to twenty-three homicides, barely a fraction of what it was at the height of the violence.¹³⁷ With the IRA now disarmed, and the number of homicides dramatically diminished, it is time for a change in the firearm-control laws in Northern Ireland—a change that recognizes it is no longer necessary for citizens to go about constantly prepared for the worst.

III. ANALYSIS

To reduce the number of firearms present in Northern Ireland, and to eliminate the presence of weapons which have no realistic use other than causing harm to people, this Note offers three amendments to the current body of Northern Irish arms control law. The first proposal is

131. The Firearms (Northern Ireland) Order, 2004, SI 2004/702 (N. Ir. 3), art. 45; Firearms (Amendment) Act, 1988, c. 45, § 1 (Eng.).

132. The Firearms (Northern Ireland) Order, 2004, SI 2004/702 (N. Ir. 3), art. 45; *see also* Firearms (Amendment) Act, 1988, c. 45, § 5 (Eng.).

133. KEVIN SMITH ET AL., UK HOME OFFICE, STATISTICAL BULLETIN, HOMICIDES, FIREARM OFFENCES AND INTIMATE VIOLENCE 2010/11: SUPPLEMENTARY VOLUME 2 TO CRIME IN ENGLAND AND WALES 2010/11 56–57 (2012), *available at* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/116483/hosb0212.pdf. Although the numbers make it appear like there was an increase in violence in 2003, this is merely due to a change in recording policy; actual numbers of violent incidents declined compared to similar events in previous years. *Id.*

134. *Id.*

135. POLICE SERVICE OF NORTHERN IRELAND, ANNUAL BULLETIN, TRENDS IN POLICE RECORDED CRIME IN NORTHERN IRELAND 1998/99 TO 2010/11 8–9, 22 (2011), *available at* http://www.psn.police.uk/police_recorded_crime_in_northern_ireland_1998-99_to_2010-11.pdf.

136. *Id.* at 22.

137. *Id.*

an amendment to the 2004 Order,¹³⁸ inserting restrictions on handgun ownership largely identical to those found in the Firearms (Amendment) Act of 1997. The second proposal is a law banning private ownership of .50 caliber rifles. Finally, this Note proposes that the Firearms Purchase Scheme (FPS)¹³⁹ be reinstated for the foreseeable future in order to provide an outlet for the weapons made illegal under these laws, as well as any future attempts at disarmament.

A. *Modifying the Provisions of the Firearms (Northern Ireland) Order Governing Handgun Ownership*

Handguns have a long history of criminal usage.¹⁴⁰ From the earliest days of firearms usage, authorities have been concerned that the readily concealable nature of pistols makes them the firearm of choice for criminal activity.¹⁴¹ During the continued, daily violence of the conflict in Northern Ireland,¹⁴² it seemed reasonable for citizens to want small, readily concealable firepower on their persons to defend themselves against the possibility of nearby attacks or if they were individually targeted.¹⁴³ Handguns were a relatively easy way to fulfill the desire to possess a weapon during those years without attracting too much attention, either from the police or from Republican and Unionist forces alike. By allowing the possibility of owning pistols for personal defense within the statutes governing weapons possession in Northern Ireland, Parliament acknowledged that this desire was reasonable.¹⁴⁴

With the conclusion of the Irish conflict¹⁴⁵ and the disarmament of the IRA and other forces involved,¹⁴⁶ however, this personal defense justification no longer suffices. While some sectarian violence continues in a limited fashion,¹⁴⁷ it is at a significantly lower rate than the levels of violence occurring during the Troubles. In the aftermath of the quasi-war that plagued Northern Ireland for the latter half of the

138. See The Firearms (Northern Ireland) Order, 2004, SI 2004/702 (N. Ir. 3), art. 45.

139. See NORTHERN IRELAND OFFICE, SECURITY AND LEGACY GROUP, *supra* note 29.

140. MALCOLM, *supra* note 42, at 49.

141. See Hardy, *supra* note 46, at 565–69.

142. See EDWARDS & MCGRATTAN, *supra* note 12, at 29–30.

143. See OPPENHEIMER, *supra* note 3, at 10. This would be a mostly optimistic hope at best, however. The majority of civilians killed died in bombing incidents, while most gun attacks were targeted specifically at British soldiers or IRA members. *Id.*

144. See The Firearms (Northern Ireland) Order, 2004, SI 2004/702 (N. Ir. 3).

145. See generally EDWARDS & MCGRATTAN, *supra* note 12.

146. See OPPENHEIMER, *supra* note 3, at 325–40.

147. See, e.g., Henry McDonald, *Derry Bombs Blamed on Dissident Republicans*, GUARDIAN (Jan. 20, 2012, 5:44 AM), <http://www.guardian.co.uk/uk/2012/jan/20/derry-bombs-blamed-dissident-republicans>.

twentieth century, Parliament should amend the 2004 Order to incorporate section one of the Firearms (Amendment) of 1997 governing small-caliber pistols.

This proposed amendment would eliminate all pistols other than single-shot .22 caliber pistols, which seemingly remain legal primarily to allow for the existence of pistol clubs, rather than as an extremely limited tool of self-defense, since that is the only place they are permitted.¹⁴⁸ This would have the desired effect of eliminating from circulation the currently legal autoloaders, such as the Browning pistol used in the Greysteel Massacre,¹⁴⁹ and nine-millimeter revolvers. While statistics detailing precisely how many of the 380,000 firearms in Northern Ireland are pistols are unavailable, it is useful to note that when Parliament passed the 1997 amendment, it had the effect of eliminating 142,000 weapons from circulation.¹⁵⁰

By restricting pistol ownership to weapons that are only capable of firing one small caliber bullet at a time before being reloaded, the amendment would largely eliminate the ability to use pistols offensively to quickly kill or injure large numbers of people. This amendment, then, would effectively prevent repeats of the Greysteel and Dunblane massacres, which were accomplished partially or wholly with legally purchased pistols.¹⁵¹ Attackers limited to securing readily available, legal pistols would be forced either to reload after every shot (a tactical unlikelihood in the ensuing chaos following the first shot), or carry an improbable number of pistols, while still keeping them concealed from onlookers in sufficiently accessible places to allow a continuous shooting spree. Neither of these possibilities is very likely, and even were they to occur, the attacker would be severely hampered in any attempt to engage in an effective shooting spree within an enclosed area.

The proposed amendment does not include the restrictions on weapon storage present in the Firearms (Amendment) Act of 1997 at Section 11, which make it an offense to possess a small caliber pistol outside the premises of licensed pistol club (subject only to certain narrow exceptions).¹⁵² This limitation is a burden on both the people who wish to own the .22 pistols they are allowed, and on the pistol clubs, which are now responsible for securely storing the weapons. Given the fact

148. Firearms (Amendment) Act, 1997, c. 5, § 11 (Eng.).

149. WOOD, *supra* note 5, at 172.

150. MALCOLM, *supra* note 42, at 207.

151. WOOD, *supra* note 5, at 172–73.

152. Firearms (Amendment) Act, 1997, c. 5, § 11 (Eng.).

that this proposal is not meant to curtail the status of personal protection as good cause for firearms possession in Northern Ireland, and the ineffectiveness of single-shot pistols as offensive tools, there is no need for additional restrictions on the people and pistol clubs of Northern Ireland. By allowing persons possessing the .22 caliber pistols to keep their weapons at home, clubs may shift their funding to other publicly beneficial programs such as firearms safety courses. Residents in more rural areas¹⁵³ may also go elsewhere to practice their shooting, without the difficulty of having to travel to a firearms club to pick up the weapon first.

Some might argue that allowing home storage of the pistols undermines the effectiveness of the proposal. For example, it might be plausibly argued that even a single-shot pistol can be used to threaten or rob another person. While this may be true, it is important to balance the competing interests at stake. Although crime prevention is a paramount interest, people also have a legitimate interests in target shooting, hunting, and self-defense. A single-shot pistol can be used as easily to ward off a killer armed with a knife¹⁵⁴ as it can be used to threaten a shopkeeper. But a single-shot pistol cannot be used to shoot multiple people without reloading, as occurred in the Greystone Massacre.¹⁵⁵

While the proposed amendment heavily curtails the privileges of people wishing to use pistols for legitimate purposes, allowing persons to retain their legal pistols at home will not undermine the effectiveness of the law. Though these privileges are not absolute, Parliament, as the voice of the people, clearly legitimized them by allowing for the retention of sports shooting clubs and single-shot pistols in the first place.¹⁵⁶ Additionally, because the amendment does not alter shotgun possession, other effective means of providing self-defense at home exist without the ready concealment of pistols. Thus, in the interest of balancing the privilege of pistol owners with the possibility of misuse, owners of legal pistols should be allowed to keep them at home.

153. According to the 2001 census, 588,651 persons (roughly thirty-four percent of the population of Northern Ireland) reside in rural communities, which is defined as any community with less than 4,500 persons. N. IR. STATISTICS & RESEARCH AGENCY (NISRA), KEY STATISTICS FOR SETTLEMENT TABLES 11 (2005), available at http://www.nisranew.nisra.gov.uk/Census/pdf/ks_sett_tables.pdf.

154. Knives are by far the most common implement for murder and grievous injury across the United Kingdom, including Northern Ireland. See POLICE SERVICE OF NORTHERN IRELAND, *supra* note 135, at 23.

155. See *Greysteel Tragedy 'Still Vivid'*, *supra* note 1.

156. Firearms (Amendment) Act, 1997, c. 5, §§ 1, 11 (Eng.).

B. *Banning Private Ownership of .50 Caliber Rifles*

During the Troubles, the IRA made extensive use of sniping attacks to kill and injure British soldiers.¹⁵⁷ Ultimately, 258 persons, the vast majority of whom were British soldiers deployed as security, were killed by snipers between 1971 and 1996.¹⁵⁸ The IRA's preferred weapon for this mission was a .50 caliber rifle, specifically the smuggled Barrett Light 50,¹⁵⁹ which could not only easily penetrate the military grade body armor worn by security forces, but could also bring down helicopters.¹⁶⁰

None of the justifications for allowing possession of firearms in Northern Ireland—self-defense, sport shooting, or hunting—are sufficient reasons for allowing civilian ownership of .50 caliber rifles. Although the Barrett Light 50 is illegal in Northern Ireland because it is an autoloader,¹⁶¹ bolt-action .50 caliber rifles, which have equivalent killing power, are legal. The 2004 Order provides as follows:

45(1)(b) [A] person who, without the authority of the Secretary of State, has in his possession, or purchases or acquires, or manufactures, sells or transfers any self-loading or pump action rifle other than one which is chambered for .22 rimfire cartridges shall be guilty of an offence.

2(2) “pump action,” in relation to any firearm mean[s] that it is so designed or adapted . . . that it is automatically reloaded . . . by the manual operation of the fore-end or forestock of the firearm.¹⁶²

Under these rules, there are no restrictions covering bolt-action rifles of any kind, no matter what their caliber or usage. The extreme killing power of .50 caliber weapons, combined with their extremely limited utility outside of a military setting, demands that Parliament move to outlaw private possession of these weapons entirely.

A self-protection argument in support of retaining private ownership of .50 caliber weapons is unpersuasive. These weapons systems are large and heavy, making them unwieldy.¹⁶³ They cannot be used at a

157. OPPENHEIMER, *supra* note 3, at 305.

158. See Sutton, *supra* note 23.

159. See BARRETT FIREARM MFG., INC., OPERATOR'S MANUAL: .50 CALIBER RIFLE M82A1 1–2 (2010) (explaining that the rifle fires a .50 caliber round weighing 42.8 grams at a muzzle velocity of 2,850 feet per second, which is more than twice the speed of sound, and has a maximum range of approximately 6,800 meters (4.22 miles)).

160. OPPENHEIMER, *supra* note 3, at 305.

161. BARRETT FIREARM MFG., INC., *supra* note 159, at 1–3.

162. The Firearms (Northern Ireland) Order, 2004, SI 2004/702 (N. Ir. 3), art. 2, para. 2, art. 45, para. 1(b).

163. See, e.g., BARRETT FIREARM MFG., INC., *supra* note 159, at 2 (explaining that the Barrett Light 50 is 57 inches long, and weighs 30 pounds unloaded).

moment's notice, and in fact require careful set up before usage.¹⁶⁴ They must be fired from a prone position, usually with the weapon supported by a bi-pod.¹⁶⁵ These characteristics show these weapons for what they are—offensive killing tools. It is impossible to give credence to the idea that a person can have time to carefully set a .50 caliber rifle and then shoot their target, while still being able to claim they were acting in self-defense.

A second argument that might be proffered in favor of retaining private use of .50 caliber weapons—hunting—is similarly unpersuasive. Wild animals do not wear military grade body armor or require a weapon that is capable of disabling aircraft. Moreover, it is doubtful Parliament contemplated allowing hunters to inadvertently cut down trees by using weapons designed to annihilate vehicles. The simple overkill of .50 caliber weapons in this setting, and the knowledge that smaller firearms could perform the hunting task equally well or better, robs this argument of any persuasive force.

The final and best argument in favor of retaining private usage of .50 caliber rifles is that of sport shooting—target shooting for the simple enjoyment of it. On its surface, this is an appealing argument—after all, Parliament acted to protect legitimate interests in sport shooting earlier by carving out an exception for single-shot .22 caliber pistols in the Firearms (Amendment) of 1997.¹⁶⁶ There is a legitimate interest at stake in preserving the privilege of sport shooting using .50 caliber rifles. However, the same social utility balancing test that argued in favor of allowing home storage of pistols also persuades against allowing the same for .50 caliber rifles. A single-shot .22 pistol is a whole order of magnitude removed from a .50 caliber bolt-action rifle. A pistol within the meaning of the proposal could not be used for a shooting spree; there is nothing, however, to prevent a sniper from using a bolt-action rifle to devastating effect from a rooftop. The difference between the two categories is simply too large to allow the relatively minor social gains from allowing .50 caliber sport shooting to outweigh the horrifying potential for disaster. While other dangerous categories of rifles exist, this particular type was the preferred weapon of IRA guerilla fighters due to its ability to penetrate military armor and destroy military equipment.¹⁶⁷ Therefore, Parliament should pass a law banning private ownership of .50 caliber rifles.

164. *See id.* at 5–8 (explaining the principles of operation of the Barrett Light).

165. *See id.* at 3.

166. Firearms (Amendment) Act, 1997, c. 5, §§ 1, 12 (Eng.).

167. *See* OPPENHEIMER, *supra* note 3, at 305.

C. *Implementing the Revisions*

In implementing these laws, Parliament will need to create a system of collection and disposal—similar to programs they have operated before. The United Kingdom controls one of the three largest civilian firearms destruction programs in the world—the United Kingdom, Brazil, and Australia together account for eighty-nine percent of all known civilian firearm destruction.¹⁶⁸ Between 1991 and 2001, the United Kingdom destroyed at least 725,000 firearms.¹⁶⁹ Integrating the destruction of firearms turned over or seized under the proposal with the existing firearm-destruction programs eliminates any difficulty implementing the proposal.

Parliament should also create a system for compensating those who turn in their newly illegal firearms. The Firearms (Amendment) Act of 1997 had a similar provision for compensation, but did not specify how compensation should be calculated.¹⁷⁰ A system of compensation will enhance the proposed amendment in two ways: (1) it supports fundamental fairness to those who are affected by and lose property because of the amendment, and (2) it provides positive incentives to encourage citizens to give up their property and obey the law. The period to turn in firearms and receive compensation would be a part of the grace period between the enactment of the law and its coming into effect. This grace period should be sufficiently long to give citizens notice and allow them to consider their legitimate options besides turning soon-to-be-illegal firearms over to the government.

The compensation should be the fair market value of the newly illegalized firearms relinquished, along with any accompanying ammunition for them, and any equipment rendered useless by the proposal, such as scopes for a .50 caliber rifle that cannot be used for a different weapon. This is the most equitable way to handle this scenario. Additionally, the promise of fair compensation for weapons made illegal under the act makes it much more likely that citizens will be willing to turn over their weapons. Firearms, ammunition, and equipment are very expensive, and people might hesitate to give up such a large investment without compensation. Just as in the Firearms (Amendment) Act of 1997, however, this compensation should be

168. Karp, *supra* note 121, at 64.

169. *Id.* at 65.

170. Under the statutory scheme, the Secretary of State was to prescribe a system for providing compensation, including the amount of compensation to be provided, through what means, and for how long compensation would be available. Firearms (Amendment) Act, 1997, c. 5, § 16 (Eng.).

strictly limited to those who possessed their firearms lawfully;¹⁷¹ it should not constitute a windfall for the reticent lawbreaker who sees an unexpected way out of his predicament.

In addition to providing compensation for those who turn in previously legal firearms, Parliament should also include an amnesty provision for those who turn in firearms after the enforcement deadline has passed. While there must be a hard deadline to give the law necessary teeth to allow for enforcement, it is also beneficial to give people who change their mind about breaking the law and incentive to turn in their illegal firearms. Amnesty would also apply to those who illegally possessed firearms and are ineligible for compensation under the proposal. Anyone who willingly turns over illegal firearms, either because they are not eligible for compensation, or the grace period has ended, will escape civil and criminal prosecution for possessing an illegal firearm. This policy would give the law continuing vitality separate from enforcement by police. This incentive also avoids an unexpected windfall to a reticent lawbreaker by providing a means to remedy the violation without obtaining an additional benefit.

D. Reviving the Firearms Purchase Scheme in Northern Ireland

These two proposed laws serve to remove particularly dangerous firearms from the public in Northern Ireland, while preserving the right to keep weapons available for personal protection. If Parliament is serious about reducing the number of weapons in circulation in Northern Ireland outside of the direct political process, however, it should extend the shelf life of the FPS, which expired on December 31, 2012.¹⁷²

The FPS provides an important outlet to eliminate excess weapons from the market, either by disposing of them or by using them to equip appropriate government agencies with weapons purchased through the program. Without such a system, weapons are simply sold and returned to the market where supply and demand dictate how many weapons are kept in circulation. While allowing for the possibility of weapons kept either for sport or for personal defense, this Note contends that firearms should not simply be left to the whim of market forces, particularly in a location that has only recently seen decades of quasi-warfare and guerilla fighting come to a close.

Instead, the FPS should be extended and expanded. Not only should

171. *See id.*

172. NORTHERN IRELAND OFFICE, SECURITY AND LEGACY GROUP, *supra* note 29, para. 6.

the current system of allowing arms dealers to sell weapons to NIO be continued, the rules should also allow NIO the flexibility to purchase specific weapons if it deems it necessary and accept sales from private citizens in their individual capacity. Under the current scheme, arms dealers may sell weapons to NIO at their discretion or try to obtain a better price on the open market.¹⁷³ NIO's role should be expanded to allow it to step in and get preferential treatment on weapons for which it is willing to pay a premium amount. This is, of course, not a right to interfere with a legitimate business transaction already completed or initiated. Rather, if an arms dealer decides to offer a weapon on the open market rather than sell it directly to NIO, NIO should be able to step in and pay the price without being turned away—the same as any other normal customer. This would give NIO flexibility to remove certain pieces that might be considered particularly dangerous but not illegal. The premium cost forms a substantial check against an abuse of power, as the government must assume the role of a normal buyer in this case.

Finally, NIO should be able to purchase firearms directly from civilians who are willing to sell them their firearms. The current law allows only licensed dealers to deal with NIO, and only weapons that are being given up and not replaced are eligible for sale. As the goal is to decrease the total number of personal protection weapons circulating in the market, the program should retain the requirement that a civilian dealing with NIO directly is giving up a weapon that will not be replaced. This can be handled by placing a record on file that prevents the person selling the weapon from obtaining a personal-protection weapon permit for a minimum of one year without a further showing of good cause as to why the bar should be lifted.

IV. CONCLUSION

Northern Ireland has changed. The end of the Troubles,¹⁷⁴ the disarmament of the IRA,¹⁷⁵ and the dramatic fall in the homicide rate¹⁷⁶ are signs of a Northern Ireland that is moving beyond its conflict-laden past towards something new. While still possessing a unique place within the United Kingdom, the justifications that once weighed so heavily in favor of allowing for a special exemption for firearms in Northern Ireland no longer exist. It is time to take steps to not only

173. *Id.* paras. 3–5.

174. *See* Sluka, *supra* note 32, at 61–63.

175. *See* OPPENHEIMER, *supra* note 3, at 2.

176. *See* POLICE SERVICE OF NORTHERN IRELAND, *supra* note 135, at 22.

bring the laws governing Northern Ireland into greater alignment with those governing the rest of the United Kingdom, but also to take proactive steps to eliminate specific firearms that have posed the greatest danger and brought the least benefit.

First, the provisions of the 2004 Order governing pistols should be amended to match the provisions governing pistols in the rest of the United Kingdom. This will eliminate all private pistol possession except for single fire .22 caliber weapons that can be used for sport shooting. Second, the 2004 Order should be amended to specifically prohibit the possession of .50 caliber rifles. These have a long history of use for violent purposes, and have no redeeming social utility. Given the devastating power these weapons possess and the lack of any positive use for them, Parliament should enact a bright-line rule banning the private possession of .50 caliber rifles altogether.

In order to implement these two reforms successfully, Parliament will need to include an incentive structure to compensate persons who turn in firearms made illegal under the act, both as a matter of equity, and as an incentive to turn over valuable pieces of property for destruction. Secondly, Parliament should establish an amnesty system whereby persons possessing illegal firearms may willingly turn them over to authorities in exchange for amnesty from punishment. This, again, is to provide a sufficient incentive to entice lawbreakers to come back into conformity with the law. Finally, Parliament should re-establish and expand the FPS in order to provide a method of reducing the total number of firearms in circulation on the market by purchasing surrendered civilian firearms that will not be replaced.

As Parliament continues to make the United Kingdom one of the safest nations in the world and is willing to adapt to the unique considerations of its constituent parts in reaching that goal, other future amendments to the law are possible. These proposals could establish a broader precedent; as the rate of violence continues to fall, there is less and less of a need for a self-defense justification in British law. Eventually, self-defense as good cause for gun possession could be stricken from the law governing Northern Ireland, bringing it even closer into alignment with the laws governing the rest of the United Kingdom. At that time, Parliament might also reevaluate whether additional categories of weapons should be reduced or restricted, depending on the outcome and effectiveness of these proposals.

Over time, these amendments will not only move toward bringing Northern Ireland into conformity with the broader laws governing Great Britain and help reduce the use of guns in violent crime, but they will also support the ongoing peace-process effort to move Ireland out of the

violence of its past and into a new future.