

Written evidence submitted by R E Flook to the Criminal Justice Bill Public Bill Committee (CJB22)

Executive Summary

- The lack in clauses 10 and 18 of the Criminal Justice Bill 2023 of appropriate defences and exemptions.
- Ministerial acknowledgement after the consultation process that specific exemptions for legitimate articles such as objects of historical interest should be included in legislation (press release 30 August 2023).
- Impact on heritage and owners rights of the application of antique and historical importance defences across the various Acts on the prohibition and unlawful marketing of offensive weapons.
- Consideration of a defence of historical importance for ownership of prohibited offensive weapons under subsection (1A) of Restriction of Offensive Weapons Act 1959, with the additional requirement of manufactured in or before 1945.
- Consideration of a defence to the importation, manufacture, sale and loan of prohibited offensive weapons in section 141 of Criminal Justice Act 1988 and section 1 of Restriction of Offensive Weapons Act 1959 on condition of possessing a Certificate of Historical Importance.

Introduction

1. This submission to the General Committee for Criminal Justice Bill (CJB) 2023 is by me as an individual. I have been a student of military and antique knives since the early 1970's. My interest is based on their history, manufacture and persons involved in their design and use. I have authored some seven books on the subject along with, to date, some 55 magazine articles on related subjects. My books are used as standard references by Museum and auction houses and I am member the Antique Bowie knife Association. I have since 1988 contributed to all the various consultations on Offensive Weapons legislation with particular emphasis on the impact on our heritage and the role of collectors in protecting that heritage.
2. My submission applies to only those aspects of CJB 2023 that relate to Offensive Weapons. My reasons for this submission is that I believe that the Bill as written provides no information, clauses or guidance on the defences that would apply to genuine collectors of bladed items. Section 18 provides no defences for legitimate ownership and this seems to be major omission, given that the clause is clearly aimed at items such a large Machetes/Zombie Knives or other large knives that were the subject of the recent consultation.

Defences

3. The press release from the Home Office and Minister for Crime, Policing and Fire, The Rt Hon Chris Philp MP published 30 August 2023 regarding these items clearly stated :

The measures come as the government responds to a public consultation launched in April this year, which carefully considered responses from individuals, manufacturers, retailers and trade organisations that rely on bladed items. Specific exemptions will be made for legitimate articles such as objects of historical importance and those that are hand-made, in order to avoid negative impacts on the antiques market and British-made industries that rely on top-end, high-value blades that are highly unlikely to end up in the hands of criminals.”

4. The concern I have is that no clarification of the unspecified “specific exemptions for legitimate articles such as objects of historical importance” has found its way into the CJB 2023 that relate to weapons, noting sections 9,10 & 18, do not include any specific exemptions.
5. It may well be the case that defences that apply will be the subject of those already contained in Criminal Justice Act 1988 and Offensive Weapons Act (OWA) 2019 however the limitation imposed by the historical importance defence of OWA2019 poses a major hurdle to collectors and to our heritage. There is requirement for any one charged to prove that the items is of historical importance, but even if they do so although they can legally keep the item they cannot sell it or give it away. This is illogical, an item does not become any more dangerous because it has moved ownership. It is also the case that unless the item is over 100 years old (the antique rule) if the person dies their heirs cannot inherit or sell the item, This will potentially mean the loss of an historical important item.
6. Although mention of the word flick knife or switchblade will raise eyebrows this loss of heritage is exactly what happened with the Restriction of Offensive Weapons Act 1959 (ROWA 1959) legislation. Knives that were even antique at that date quickly disappeared to overseas collectors. Committee Members would be hard pressed to find many examples of Victorian Sheffield made flick knife in any of our Museums, only a single example being held by the Royal Armouries. An example (see Annex A) that was at the Great Exhibition of 1851 has ended up in a private collection overseas. It would be difficult to deny the fact that such an item as this was not historically important and such pieces are readily identifiable from the more modern Italian style knives. Even the extremely rare British World War 2 (WW2) Gravity Knife, of which only a handful of specimens are known, is victim of this catch-all legislation, again most of these have found their way into overseas collections.
7. Any such items in the collectors market would be worth up to several thousands of pound a price no criminal would even think about. The USA from which most of our gravity and flick knife legislation was copied has in large majority of States repealed any legislation that restricts these items, because amongst other issues it is not the weapon that is dangerous but the person that wields it.
8. Other items caught up in Historical Importance issue is a Middle East Commando Knuckle Duster Knife that belong to a Victoria Cross winner. It is undoubtedly of historic importance yet from the owners point of view it is worthless as they cannot sell it for at least another 20+ years when it will become over 100 years old.
9. When one looks at images of knives taken from criminals pieces such as antique switchblades or historically important antique and WW2 weapons just do not feature. Yet these are penalised in the same way as Zombie Knives. Even antique items that have single cutting edge and a sawback, such as the Imperial Russian Pioneers Sidearm (AnnexB) are in danger of being or being caught by the legislation unless specific

defences are provided. The current and proposed legislation as presented certainly do not reflect the stated aims of:

“Specific exemptions will be made for legitimate articles such as objects of historical importance”

10. The historic importance defence could however easily be strengthened protecting both the collector and our heritage by the requirement for applicable items to have an historic importance certificate. Such a certificate would need to be signed by an auction house, museum authority or recognised expert. It would be applicable to all items on the OWA 2019 restricted list of but with the caveat that they are of pre 1945 manufacture. This date would thus protect both antique and items of WW 2 vintage. It is accepted that in relation to flick and gravity knives any changes in their status would probably require primary legislation.
11. Such a scheme could be strengthened if it was in some way administered by the Home Office, such as downloadable pro forma and then registered in a similar way to the Ivory Act.
12. Some may fear that criminals could exploit such a scheme. But no criminal would seek to apply for such a certificate for a modern knife knowing it would be declined. Also if caught and charged with possession of a restricted item that has no certificate any possible defence would be extremely limited in its scope.
13. It would also provide a ready means of identification of a historically important weapon by police officers who are unlikely to have any knowledge of historic provenance, but can determine that the item matches the photographic record in its certificate.
14. The repeal of the restriction on gravity and switchblade knives of pre 1945 or earlier vintage presents no danger to the public or an increase in knife crime. It really is no secret that the many hundreds of collectors of German WW2 edged weapons are likely to own a Luftwaffe gravity knife yet there has been not a single reported instance of such weapons being used in knife crime. The same applies to a number of other WW2 weapons such as the Middle East knife, these items just do not feature in knife crime.
15. Other items within the restricted list would be unlikely to benefit from the historically important certificate as they would not meet the criteria for pre 1945 manufacture or as an antique, typically certain martial arts weapons.
16. The Committee may feel that such changes would send out the wrong message to the public yet when you ask any lay person what weapons criminals use and they without fail all say kitchen knives. This is amply illustrated by the images of confiscated weapons that can be found in an internet search..
17. The pro's and con's of such an approach are:

PROs

- Protects our heritage.
- Gives owners of heritage items protection if found with a historically important item.
- Allows owners and their heirs to sell or otherwise pass on historically important items.

- Would apply to a very limited range of items and not those used in knife crime.
- Could in the main be dealt with by Statutory Instrument.

CONs

- May give the public the perception that the Government have gone soft on knife crime.
- Would possibly need primary legislation for some items.

Recommendations

18. The Committee recommend amendments to CJB2023 Sections 9,10 & 18 to include defences for the ownership bladed articles.
19. That the Committee discuss with the Home Secretary the bringing of defences in Section 1 of ROWA 1959 and section 141 of CJA 1988 in line with the defence of antiques and curios in section 3 of the Knives Act 1997.
20. That the Committee discuss with and propose to the Home Secretary the introduction of Certificate of Historic Importance that would allow the legal ownership, sale, etc of items within the restricted list (as amended) of OWA 2019.

December 2023.

ANNEX A

Antique Switchblade exhibited of the Great Exhibition of 1951 that is under current



legislation illegal in the UK.

ANNEX B



Imperial Russian Pioneers Sidearm