

Written evidence submitted by John Pidgeon of CART to the Criminal Justice Bill Public Bill Committee (CJB34)

Executive Summary

1. Measures to prevent knife crime and enhance public safety in clauses 10 and 18 of the Criminal Justice Bill 2023 need the addition of appropriate defences and exemptions to avoid unintended consequences and detrimental impacts of the legislation.
2. The Minister has acknowledged 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).
3. A question for the Committee to consider is the consistent application of antique and historical importance defences across the various Acts on the prohibition and unlawful marketing of offensive weapons.
4. The Committee is requested to consider a defence of historical importance for ownership of prohibited offensive weapons under subsection (1A) of Restriction of Offensive Weapons Act 1959, worded similarly to section 141 of Criminal Justice Act 1988 subsection (7A) but with the additional requirement of manufactured in or before 1945.
5. This submission also outlines a procedure for certification that an item is of historical importance that was previously discussed with the Home Office Knife Crime Policy Team during the consultation, but not included in the draft text of the Criminal Justice Bill 2023.
6. The Committee is requested to consider 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 issued by the Police / Home Office.
7. When scrutinising the expansion of police powers in the Criminal Justice Bill 2023, the Committee is requested to consider the inclusion of specific exemptions into Clause 18 subsection (1) to clarify that the reason for entry into private premises was associated with criminal activity involving the owner or occupier.

Introduction

8. My background is as a collector, author, militaria specialist adviser to auctioneers and researcher with 45 years of knowledge in the subject of historic edged weapons. I am also a committee member of Coleshill Auxiliary Research Team (CART), which is a group of volunteer researchers and supporters who investigate and record the history of the WW2 Auxiliary Units and Special Forces. We publish findings on the British Resistance Archive website and organise exhibits at public events or at the unveiling of memorials where edged weapons are frequently, but securely displayed. CART has just completed a countrywide project to record the secret underground bunkers using a National Lottery Heritage Fund grant as part of their Digital Tranche 8 funding.
9. During the recent public consultation on new knife legislation proposals preceding this Criminal Justice Bill I was invited to attend a Knife Crime Policy Team meeting with Bill Harriman (of BASC & BBC Antiques Roadshow) due to our expertise in knives of historic interest. My reason for submitting evidence is that the widely supported measures to remove the cheap, nasty items from the hands of criminals and young people need to be counterbalanced by consistent provision of defences in legislation to protect the legitimate interests of heritage, re-enactment, religious ceremony, theatrical productions, historic collections, antique dealers and museums.

Evidence on Need for Defences

10. The majority of our Heritage is in private hands, either with the veterans' families or in private collections. The statement "*Collecting – the preservation of the past by many individual collectors in England and Wales is important in itself, and often to the benefit of our museums and national heritage bodies.*" was included in the Home Office 2007 Consultation document on Offensive Weapons and is still relevant today. An example of this "*benefit*" is that the first three copies of the new book "The History & Knives of Robbins & Company with related knives" by Ron Flook & John Pidgeon, were sent to The Royal Armouries, The National Army Museum and Dudley Library. The majority of the reference books used by museum staff are written by private collectors after many hundreds of hours of research and many decades of experience. This complements the preservation of the past undertaken by our museums and advances our knowledge of history in a different way, by use of online media, talks to historic interest groups and public exhibitions. Historic items, albeit of daunting appearance, that were deliberately made as offensive weapons are now at the opposite end of the spectrum to the bladed weapons encountered by the Police on our streets.
11. To my knowledge, weapons of historical importance have not featured in any crimes. By contrast, I would suggest that every MP and member of the Lords owns a knife of the type most commonly used in knife crime. Also there are 38 members of the Lords and 47 MPs who have served in the forces, many of whom are likely to have retained their officer's sword or been presented with an inscribed commando dagger, which they consider as a memento of their service in the same way as a veteran from WW2.

Proposed Ban on machetes and other large knives; specific exemptions

12. I refer the Committee to the press release “Government bans machetes and zombie knives” from the Home Office and Minister for Crime, Policing and Fire, The Rt Hon Chris Philp MP published 30 August 2023 which contains the paragraph:-

“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.”

13. The Minister (Chris Philp MP) has stated in a Home Office policy paper 14/11/2023 and in reply to a question in the Commons (Hansard 15/11/2023 6.51pm) that the ban on zombie knives and machetes will be carried out by statutory instrument in the very near future.

14. My concern is that the promised “specific exemptions for legitimate articles such as objects of historical importance” will require amendments to primary legislation. This evidence is a guide for the Committee to consider if it fulfils the objectives of the legislation to apply the historical importance exemption to possession and supply of offensive weapons defined in both the Acts amended by CJB 2023, clause 10 (page 7). Reasons of consistency are put forward to include ROWA 1959, which currently does not include any historical importance exemptions to possession or supply.

15. Further consistency concerns between antiques and objects of historical importance are exemplified by the images in Annex A, which were sent in a follow up letter to the Minister for Crime, Policing and Fire after the consultation on new knife legislation and are herewith included for perusal by the members of the General Committee. The WW2 Luftwaffe survival machete (image (A1)) is similar in nature to the saw-back bayonets (images (A3) & (A4)), but is treated differently under the defences in Section 141 CJA 1988. The bayonets are antique and can be freely sold, gifted, hired or imported. The WW2 Luftwaffe machete would only be historically important and although the buyer would be able to continue to own it in private under the defences of Section 141 CJA 1988, they would not be able to sell it until 2045 (100 years after production ceased). However both items are in very similar categories in cost and in posing a low risk to the public due to the context in which they are obtained and stored by those who value them. There is no good reason or justification preventing the buyer of this item for nearly £1200 only 18 months ago from transferring ownership to another custodian.

16. OWA 2019 added the historical importance defence to section 141 of CJA 1988 for possession in private of a weapon to which the section applies, without a clear definition of historical importance. Following an online meeting with the Home Office Knife Crime Policy Team in June 2023, we submitted a proposed scheme of Historical Importance Certification, similar to the certification process used for antique ivory and borrowing features used by the Australian Government for permission to import prohibited weapons.

It had been devised in consultation with some of the prestige auctioneers and militaria dealers from this nation's multi-million pound antique and historic weapons trade. A typical certificate is included for the Committee in Annex B.

17. A certification scheme has the following benefits:-

- i. It does not present a loophole to obtain a prohibited weapon because it is unlikely anyone would make an application to the Police / Home Office for a historical importance certificate if the item was not historic, given that it would certainly be declined, the item confiscated and the applicant faced with the more severe sentences proposed in Clause 10 of CJB 2023.
- ii. The scheme provides an easy means of photographic identification of a historically important weapon by front line police officers, who can match the item to its certificate.
- iii. It removes the incentives for the small minority of rogue antique dealers or auctioneers to offer expensive modern fakes because the buyer would seek the reassurance of a certificate.

Defences applicable to Restriction of Offensive Weapons Act 1959 (ROWA 1959)

18. In the last 45 years that I have had an interest in historic weapons, I have seen many hundreds of items for sale in auctions and at antique militaria fairs that come within the scope of this act. Most were WW2 German airman's gravity knives plus a few Victorian flick knives. Police Officers attending the same events have used their discretion to assess the situation as unlikely to increase knife crime. Historic items that sell for many hundreds of pounds have proved unattractive to criminals and after many hours researching, I have not located a single newspaper report of a historic item being used in a violent crime or stabbing in the last 6 decades.

19. In light of my research, I suggest to the Committee that scrutiny of CJB 2023 provides a timely moment to update the defences in section 1 of ROWA 1959 in line with some, but not all of the defences available in section 141 of CJA 1988.

20. A blanket ban on knives that open by a flick knife mechanism or by gravity could be reviewed by the Committee with an additional defence for items of historical importance for possessing such weapons in private and a Certificate of Historical Importance for any supply. Items of many decades age, which use springs to operate, will be unreliable as a weapon. The mechanism will be corroded, clogged with debris, the spring already fatigued and liable to break when operated. In a similar manner to an old flintlock firearm, the owner would be unwise to stress the spring and it is best to leave it in the discharged state. Also many of the historic items are not even weapons, but just use the mechanism to enable them to be opened with one hand by a pilot, paratrooper, sailor or a disabled person. A selection of these is shown in Annex C.

21. Defences of “use by visiting forces” and “theatrical productions” are also valid legitimate activities but outside the scope of this submission.

Concerns with Clause 18 CJB 2023

22. The Policy Document, Criminal Justice Bill: Knife Crime, (updated 1 December 2023) referring to the consultation states:

“Most responses were supportive of the measures overall. However, a number of respondents raised concerns in relation to the new police power to seize knives held in private, and how the power would be exercised. We will work with the NPCC to develop guidance to police forces to ensure that these powers are exercised appropriately.”

23. I respectfully suggest to the Committee that entering “private property lawfully” requires clarification. A Police Officer can enter a property lawfully for the following reasons:

- i. Execution of a search warrant.
- ii. An owner or an occupant of the property may invite a Police Officer to enter the property.
- iii. Dealing with breach of the peace or preventing it.
- iv. Enforce an arrest warrant.
- v. Arrest a person in connection with certain offences who they believe is in the property.
- vi. Recapture someone who has escaped from custody.
- vii. Save life.
- viii. Prevent serious damage to property.
- ix. Check whether the occupant is at risk because of mental illness.

24. Not all of these reasons for entering a property lawfully relate to criminal activity and without suitable defences or exemptions may result in unintended consequences. Inexperienced constables entering a property to save the occupant’s life after a fall could misinterpret visible items, such as a machete, which has been kept as a proud memento of a veteran’s service to the nation with the Chindits in WW2, as a potential cause of harm. Seizing this would be unjust if the individual were unable to challenge the confiscation due to ill health and a waste of court resources if they were.

Recommendations for Action

25. The government has stated that the intention of Clause 10 CJB 2023 is to bring the maximum penalty for offences relating to offensive weapons in line with the existing offence of unlawful marketing of knives in section 1 of the Knives Act 1997. Correspondingly, now is the appropriate juncture for the Committee to consider bringing the defences in section 1 of ROWA 1959 and section 141 of CJA 1988 in line with the defence of exempt trades of antiques and curios in section 3 of the Knives Act 1997.

26. Consideration is recommended for Clause 10 to include the insertion of a defence for the offence in subsection (1A) ROWA 1959 in the suggested format:

(7A) It is a defence for a person charged with an offence under subsection (1A) to show that the weapon in question is one of historical importance and manufactured in or before 1945.

27. 1945 is an easily determined cut off date by an expert assessing the item and prevents, for example, someone claiming that a cheap 1960's flick knife is of historical importance. As explained in this submission, it can be demonstrated that the "pre-1945" items present little or no risk to society because their age makes them unreliable as street weapons.

28. If the Certificate of Historical Importance proposal is acceptable to the Minister and members of the General Committee it could form the basis of your consideration for additional subsections in Clause 10 of CJB 2023 to amend both section 1 of ROWA 1959 and section 141 of CJA 1988 with a subsection (7B) in the standard format:

(7B) It shall be a defence for any person charged in respect of any conduct of that person relating to a weapon to which this section applies-

(a) with an offence under subsection (1) above; or

(b) with an offence under section 50(2) or (3) of the Customs and Excise Management Act 1979,

to show that the conduct in question was only for making available a weapon with a Certificate of Historical Importance issued by the Police /Home Office.

29. In response to the consultation the Committee could also consider the inclusion of specific exemptions into Clause 18 subsections (1) to clarify that the reason for entry into a premises was associated with criminal activity involving the owner or occupier. As it stands, Clause 18 is in effect extending the powers of the Prevention of Crime Act 1953 of being in possession of an offensive weapon from "in a public place" to in any premises, but is replacing the requirement of "without lawful authority or reasonable excuse" with reasonable suspicion by the police. A collector of antique bayonets will have many legally owned offensive weapons in their premises which are very unlikely to be used for violence but their collection is potentially at risk of disproportionate police interventions precipitating unnecessary court proceedings and public costs.

ANNEX A In-scope bladed items with both serrated and plain cutting edges



(A1) WW2 German Luftwaffe bomber aircrew survival machete. Blade length 16 inches.

A more common example without the saw teeth sold by C&T Auctions 25/7/2022
Invoiced for £1,162.88 inc. premium (i.e. compensation estimate)

This item was made for cutting brush, making bivouacs and splints for broken bones.
It is of historical importance but sale would only be permitted in 2045 when it became an antique.



(A2) NASA Apollo Astronaut Machete made 1966. Blade length 17 inches

An example with NASA provenance would probably sell for more than the £10,000
compensation budget in Knife Crime Legislation Impact Assessment HO IA 0441

ANNEX A: Antique bladed items with both serrated and plain cutting edges



(A3) British Elcho bayonet made in 1871. Blade length 25.25 inches

JDR Militaria priced at £2,895.00 May 2023

This item was specifically made as an offensive weapon. It is an antique, being over 100 years old. It is exempt from the legislation and like all antiques has been assessed as extremely low risk to society.



(A4) German WW1 S98/05 saw-back bayonet made in 1915 Blade length 14.5 inches

CS Militaria priced at £275.00 May 2023

This item was also specifically made as an offensive weapon. It is an antique, being over 100 years old. The Germans recalled most of these during WW1 and ground off the saw teeth due to the Allies treating severely any prisoner taken with one.

Incidentally, this is likely to be repeated by dealers and owners of the modern bladed weapons with both serrated and plain cutting edges that are targeted by the proposed new legislation. It would take about 20 minutes with a grind wheel, making the addition to the list of banned items futile.

ANNEX A In-scope bladed items with both serrated and plain cutting edges



(A5) A 1970's Siebe Gorman Royal Navy antimagnetic mine clearance diver's knife.

Blade length 8 inches. The serrated blade is used to extricate the diver if tangled in ropes or hawsers,

JC Militaria Manchester priced at £675 May 2023 (i.e. compensation estimate)

This item is of historical importance so could not be sold if included on the prohibited list.



(A6) A modern diver's knife of similar design. Blade length 8 inches

Compensation value typically £65

This item has a legitimate purpose and a government ban on possession and sale would constitute an unintended consequence.

Annex B Certificate of Historical Importance

Certificate No: SAMPLE JCP 01

Item: WW2 German Luftwaffe Survival Machete

Assessment Criteria

This certificate applies to prohibited and banned offensive weapons specified by UK legislation.

For the purpose of this certificate the basis of evidence that an item meets the defence of Historical Importance is that it meets criteria A:

A. Original item, not a fake or modern reproduction

and one or more of the following criteria:-

B. Piece of memorabilia from a documented historical event, appearing in reference books or accession lists of museums or galleries

C. Has a documented provenance or original markings linking it to an individual or identifiable unit.

SECTION 1

Description, identifying marks or features:

Luftwaffe survival machete, with steel S-shaped cross guard, steel upper pommel, and ribbed wood grips with 8 grooves secured by tiny screw bolts. Its scabbard, which has lost the majority of its original blueing, has traces of a later black enamel paint finish (5%) and is covered in a film of surface rust, which gets thicker towards the centre of the scabbard. Webbing frog missing. Has a singled edged blade that measures 40.5 cm, overall 55cm with double row of saw teeth along back edge. Marked on blade ricasso with the Alcoso Solingen trade mark of lettering A C S around a set of scales, which is the trade mark for Alexander Coppel of Solingen used during WW2. No Regimental numbers or serial numbers present.

NOTE Images to be attached at Annex with seal to prevent substitution.

SECTION 2

Assessment Criteria Evidence of Historical Importance:

A. Is it an original item?

The size, method of construction detailed in Section 1 and overall appearance is identical to known original WW2 examples in other collections. The versions with saw back blades are considered to be rare. The wooden grip fits between the guard and pommel very precisely and has genuine signs of being handled over many years. The wood has brown rust stains from the corroded grip screws and one grip has a split caused by expansion of the bolts internally. The original grinding and finishing marks are no longer visible and the entire blade has genuine age pitting. It appears to have had working rust removed but has no signs of the application of artificial aging chemicals. The high spots on saw teeth are worn but in the depths of the saw teeth there are still marks of the original factory milling process. The cutting edge is blunt due to many decades of handling. Subsequent scratches and minor dents are in all directions and random, unlike the look seen on a fake or reproduction. This is an original WW2 item.

B. Is it a piece of memorabilia from a documented historical event?

It was primarily issued to aircrew of large and medium sized bombers of the Luftwaffe in WW2 as a survival aid and breakout tool should the normal hatches be jammed on landing the plane. It is a very much sought after item by collectors of WW2 militaria and a similar example is referenced on page 131 of book "Luftwaffe vs RAF Flying Equipment Of The Air War 1939-45" by Mick J Prodger, published by Schiffer Publishing 1998. An example appeared in the German propaganda publication "Der Adler" (The Eagle). No examples could be located in UK museums

C. Does it have provenance linking it to an individual or identifiable unit?

This example only has general provenance of being removed from a crashed German Ju88 bomber in the early 1940s but no documentary evidence or markings.

SECTION 3

DECLARATION

I **John Pidgeon** therefore declare that based on my experience and expert knowledge the item described above and shown in the attached image(s) is of Historical Importance as specified by UK Legislation. This item meets assessment criteria A and **B** ✓ C

Organisation **N/A** (e.g. Royal Armouries Leeds / Bosleys Auctions)

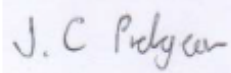
Job Title **N/A** (e.g. Curator of Edged Weapons / Weapons Specialist)

Nature of Expertise **Militaria Expert** / Museum / Auction House

Item Value **£ 1200.00**

Valuation Fee **£ 0.00**

Signed



Date. **30/6/2023**

Completion Notes for those signing the certificate:

1. Assessment by an Auction House would need to be by a Specialist Auction House or Head of the Specialist Department relevant to the type of weapon.
2. Assessment by Museums would need to be by the Curator of Weapons relevant to the item.
3. Assessment by a Militaria Expert would need to be accompanied by a CV detailing the expert's background and experience.
4. The item value is the expected market price at the date of the certificate and where possible should be based on the usual prices achieved by similar items in open auction.
5. If a fee is charged for such a certificate this should be detailed.

Annex B Certificate of Historical Importance



ANNEX C Items banned under Restriction of Offensive Weapons Act 1959



Auction date: **05 May 2015 10:30 BST**
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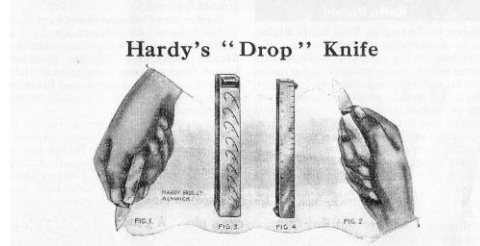
Description [Auction Details](#) [Shipping](#) [T&Cs & Important Info](#)

Extremely Rare WW2 British Issue Knife by George Ibberson & Co Sheffield, knife is complete with its perfectly intact black chequered grip. Blade has clear makers mark to the base. Original spike fitting. Lock catch remains in working order. Blade has some light staining but is generally in good condition. **When the British Military Intelligence captured a Luftwaffe paratrooper knife, they were so impressed, that they instructed George Ibberson & Co, Sheffield, to produce copies of these. They were issued to SOE (Special Operations Executive) operatives and other special forces units. They were made in a very small numbers and as such are very rare. The vendor was given this knife over 30 years ago by an elderly neighbour amongst a box of tools.

(C1) British WW2 SOE gravity knife sold in 2015 for £4,000 (Saleroom.com)

Spring operated 'Nelson' knife, New York, United States, 1845-1855

MADE: 1845-1855 in New York county
 MAKER: A A Marks Company



(C2) An amputee's flick knife designed to allow a one armed man to eat his dinner

(C3) The early 20th century Hardy's Drop Knife is a gravity knife intended for anglers



(C4) 19th century gravity knife issued to US Navy sailors. Note blunt end.

[← Prev lot: 159](#) Search by lot # [Next lot: 161 >](#)

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\ German Third Reich Paratrooper's Gravity Knife, the blade etched with maker's mark for Paul Weyersberg & Co., Solingen, and etched ROSTFREI, with walnut grip scales and folding marlin spike, together with a copy photograph showing a line of JU52's in a deserted German airfield known as Westerland Sylt, taken in 1945 by the vendor's father 1775142 R E Smith of the RAF Regiment who also recovered the knife from one of the aircraft

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 LOT 159 A GERMAN THIRD REICH
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(C5) WW2 German parachutist gravity knife; issued as a piece of life saving equipment. The round nature of the point is a deliberate design feature so that the user does not get stabbed trying to cut straps or parachute cord when entangled. (Saleroom.com)



(C7) 19th century percussion pistol with flick knife bayonet



(C8) An Edwardian miniature flick knife made to demonstrate cutler's skill



(C9) This item is not banned by ROWA 1959 and opens with a thumb stud.

This is the type of knife the Home Office have deemed suitable for use by Rock Climbers and Fishermen for self-rescue purposes in 2019. It can be deployed faster and potentially cause greater injury than any of the historic items previous illustrated.