

TRC143

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also e-mailed

Dear Sir,

I am replying to your consultation document (Tackling Knife Crime: A Consultation. Scottish Executive 2005). Although I do not live in Scotland, I do have a stake in this, as a one time resident of Dundee, an active collector of arms, one-time fencer, and practitioner of Kendo (including to a standard of using the steel bladed katana and wakisashi in exercise); a user of samurai swords in your terms.

My interests include the heritage of historic firearms, their accoutrements and accompanying equipment and includes both swords and bayonets. The rationale for this is varied. In the case of an officer's sword: held to accompany a heritage pistol. For a bayonet, it would be either as an artefact in its own right or to accompany a classic rifle and which; in this latter case, very much effects the shooting characteristics of that rifle when fitted to the rifle.

I would make the following observations in two parts. The first is general in nature (also covering some particulars identified in the consultation document) whilst the second responds to particular questions posed in the consultation.

#### **Section 1 – General observations.**

I applaud the Scottish Executive's recognition of the importance of collectors in the preservation and understanding of the heritage, and that they are entitled to some consideration.

I regret to note the statistical information of violent crime in Scotland. However, I must query how many murders were tragic domestic incidents or using domestic knives which would remain unaffected by the proposals.

Experience has shown that it is of little value or benefit of banning in context of misuse/criminal use of items. Additionally, what clear evidence is there of the ban on swords having public benefit in Victoria, Australia

Museums cannot carry all the burden of preserving a nation's heritage and therefore the private collector, often working closely with the curators of public institutions, who fulfils a very valuable role.

It should be recognised that collectors generally start in a modest way with one single item which attracts their attention. From that one item they may build up a substantial collection over many years. It is also essential to allow young people to develop a healthy interest in heritage and to collect antique or interesting artefacts including military knives and swords, so long as they are not used for violent anti-social behaviour or crime. We really should recognise that some of them can act in a socially responsible manner.

One recognises the contribution of Re-enactors. They are a valuable resource, Re-enactment societies and individuals help preserve our common heritage as well as fulfilling an invaluable educational function. Not unnaturally, swords, knives and bayonets feature prominently in such activities.

Under the proposals demands on police and local authorities' time could be excessive with little benefit to the public. There is already ample existing legislation on the possession of knives etc. in public places, and on assault (Annexe A) and one would suggest that Police time and resources is spent enforcing existing law rather than new law brought in to paper over cracks. Targeted Police operations in other fields of crime have shown themselves to be much more effective, better value for money and of public benefit.

I am much concerned that the outcome of such legislation will result in driving *Scottish Heritage underground with some artefacts even leaving the country*. Bans on existing inanimate objects do little to effect criminal behaviour and misuse – one has only to look at the ban on handguns to recognise that.

Bans also have the effect of adding “street cred” to the item (Police evidence to Home Affairs Committee after Dunblane). Bans only control the law abiding who are **not** misusing the items.

Consequently, I really do **not** feel that the sale of swords should be banned.

However, should this legislation is introduced, exemptions should be made for certain responsible groups i.e. collectors. Exemptions should include anything to do with National Heritage.

If swords are banned and exceptions made, there is a real management issue about how the majority are not in effect, made into criminals by ineffective systems of identification.

Identification itself poses many problems. In particular, how does one identify a particular sword – numbering will only deface and devalue it, and is itself easily fraudulently applied. Such defacement and devaluation raises issues of compensation, quite apart from the sheer vandalism of it all.

The proposed definition of a sword is inadequate as it allows for too many loopholes. One would suggest that further detailed discussion be held with such as the Museums Weapons group, Arms and Armour Society, To-Ken Society, all respected and authoritative organisations; I am sure others exist to whom you should be talking. I add that yours is a national and not just a Scottish problem and that heritage is not just a Scottish affair, but a UK national and international issue.

I suggest that it is important to allow the sale of heritage items such as knives, swords and bayonets in the course of a Militaria Fair or similar event, without let or hindrance. These events are not normally frequented by hooligans or criminals, and they offer the opportunity for young and old to begin and expand their collecting hobby. I suggest that there is also considerable informal person to person trading which would be very difficult if not impossible to licence, making criminals out of the innocent.

In a similar vein, I feel that any suggestion to hide the sale of items such as knives and swords by displaying them behind darkened or frosted glass shop windows, would have the opposite effect to that intended. It would add to their "Street Cred" and make them as attractive as "forbidden fruits".

If a licensing scheme is introduced, how would one deal with changes of interest - a hunter who no longer hunts, and hunter or seaman wanting a second knife?

It should be appreciated that there can be considerable investment by collectors in such arms and we presume that compensation will be given in the event of confiscation. Such compensation should include limiting their value by banning transfer or sale rather than possession, with consequential damage to investment value of private property – laws of Blight come into play here.

## **Section 2 – Particular comments**

Para 4 – none of the proposed legislation would stop domestic knives and screwdrivers getting into the wrong hands, so why swords and non-domestic knives? Domestic knives – and lead pipes – are offensive weapons if used or carried inappropriately, and Police powers have increased in this respect (Para13)

Para 6 - swords have been used as badges of office and for decoration, not just for use. Lethality lies in application not in intent.

Para 26 - I fail to see how the proposals would adversely affect misuse or trade between miscreants.

Q1 – No

Q2 – not a necessary question

Q3A – No

Q3B – N/A

Q4 – why should business bear an additional burden for spurious and unproven benefits. If something is of public benefit, then should not it be a cost borne by all – as is the cost for Policing, Health or Armed Services.

Q5 – n/a/ bearing in mind the inefficacy of any such system. Only the introduction of any such system would merit (?) such an offence. It does beg the question of what happens should a private person want to dispose of a knife for which they previously, but no longer, have a use. It would stop knives (or anything identified as such) being given as a gift – Happy Christmas?

Para 39 – what happens if an individual leaves the “approved” organisation? How would new or splinter organisation be effected, as they are started-up and grow from new? This could be a major issue in Re-enactment.

Q6 – No

Q7 – No, how would one police this, see comment on new organisations, above.

Q8 – No

Q9 – see comments on heritage & collectors, above. In addition, it enforces membership of an organisation on a collector, and invidious imposition on a private individual guilty of no crime or misdemeanour.

Q10 – No

Q11 – see comments above

Q12 – see comments above

Suffice it to repeat: control the misuser and the abuser, **not** the artefact.

Para 64 – why should an individual bear the costs of a system of dubious and unproven benefit. If it is of public benefit, then let the cost be borne by all. As comments above.

Q13 – No

You recognise in the Introduction that the problem lies with misuse and applying penalties for that misuse (Page 1 - Introduction: paragraphs 4 and 5). Since you recognise that, one is forced to question why the attempt to ban or control legitimate items and artefacts, and their users, rather than dealing with the nub of the problem –the misuse of knives and swords.

The effect of the proposed legislation will be to:

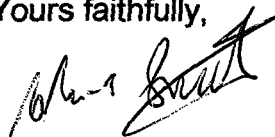
- criminalise the innocent
- add nothing to public safety, since by their very nature, criminals are not inclined to observe the law,

and yet again,

- use legislation to (try and) control the few at the expense of the many.

Since I have been using, collecting and studying arms since the 1960's, I do have some background and contextual understanding of arms. Should the Scottish Executive require further comment or explanation, I would be pleased to comment further and would gladly take part in any further consultation.

Yours faithfully,



Chris Smith