

Gun Control in Colonial New England

The Second Amendment, and the equivalent guarantees of a right to keep and bear arms that are in most of the state constitutions, are there for a reason—gun control is not a new idea, but an old one. English kings, starting at least in the realm of Henry VIII, attempted to limit who was allowed to own guns. Henry VIII, for example, prohibited poor people from shooting crossbows or guns.¹ If you were a king, wouldn't you want the rabble to be disarmed?

In the seventeenth century, Charles II and James II passed various measures to disarm untrustworthy sorts, required gunsmiths to register guns that they worked on, and limited imports of guns. Unsurprisingly, when the Glorious Revolution of 1688 took place, and Parliament invited William & Mary to become the new monarchs, they wrote a Bill of Rights that guaranteed a right to keep arms: "That the subjects which are protestants, may have arms for their defence suitable to their conditions, and as allowed by law."² (Professor Joyce Malcolm has written a splendid scholarly study of this period and why this right was important enough to list.³)

In Colonial America, however, things were a bit different. The colonies were far enough away that uppity colonists with guns weren't any threat to the king (though they sometimes were to the king's governors and soldiers). Besides, the colonial governments

¹ Stephen P. Halbrook, *That Every Man Be Armed: The Evolution of a Constitutional Right* (University of New Mexico Press, 1984; reprinted, Oakland, Cal.: The Independent Institute, 1984), 41.

² Walter Laquer and Barry Rubin, ed., *The Human Rights Reader*, (New York: New American Library, 1979), 106.

³ Joyce Malcolm, *To Keep and Bear Arms: The Origins of an Anglo-American Right* (Cambridge, Mass.: Harvard University Press, 1994).

recognized that they needed an armed population, not only for protection from the Indians, but also from foreign armies and pirates.

This doesn't mean that there were no gun control laws in Colonial America, however. Some of these laws should not be any great surprise, especially in light of the open racism of many of the gun control laws passed in the slave states in the nineteenth century.⁴ Massachusetts and Plymouth colonies prohibited sale of guns to the Indians, at least at times, and to some Indian tribes.⁵ Rhode Island, on the other hand, required Indians who worked as servants to whites to be members of the militia, and "carefully provided for arms and ammunition for said service...."⁶

Other gun control laws of this period are a little startling today, but would doubtless please modern gun control advocates. A Bostonian named Anne Hutchinson in 1637 began to teach her notion of Christianity, and as her ideas spread rapidly through Puritan society, the government decided that it needed to do something about it: they expelled her for heresy. But she had a number of friends, some in high places. "[S]ome persons being so hot headed for maintaining of these sinfull opinions, that they feared breach of peace, even among the Members of the superiour Court... those in place of government caused

⁴ Clayton E. Cramer, "The Racist Roots of Gun Control", *Kansas Journal of Law & Public Policy* 4:2 [Winter, 1995] 17-25, available on the web at <http://www.law.ukans.edu/jrnl/cramer.htm>.

⁵ Charles Francis Adams, Jr., ed., *New English Canaan of Thomas Morton* (Boston: The Prince Society, 1883; reprinted New York: Burt Franklin, 1967), 21-28; Nathaniel B. Shurtleff, *Records of the Governor and Company of the Massachusetts Bay in New England* (Boston: William White, 1853), 1:196; Joseph H. Smith, ed., *Colonial Justice in Western Massachusetts (1639-1702): The Pyncheon Court Record, An Original Judges' Diary of the Administration of Justice in the Springfield Courts in the Massachusetts Bay Colony* (Cambridge: Harvard University Press, 1961), 208.

⁶ James B. Whisker, *Arms Makers of Colonial America* (Selinsgrove, Penn.: Susquehanna University Press, 1992), 16.

certain persons to be disarmed in the severall Townes, as in the Towne of Boston, to the number of 58, in the Towne of Salem 6, in the Towne of Newbery 3, in the Towne of Roxbury 5, in the Towne of Ipswitch 2, and Charles Towne 2.”⁷

Other laws are startling as well, but in another direction. A 1632 statute of Plymouth Colony ordered “that every freeman or other inhabitant of this colony provide for himselfe and each under him able to beare armes a sufficient musket and other serviceable peece for war with bandaleroes and other appurtenances with what speede may be....” By the end of the following May, each person was to own “two pounds of powder and ten pounds of bullets” with a fine of ten shillings per person who was not armed.⁸

A March 22, 1630/1 order required that every town within Massachusetts Bay Colony “before the 5th of Aprill nexte” make sure that every person, including servants, “furnished with good & sufficient armes” of a type “allowable by the captain or other officers, those that want & are of abilitie to buy them themselves, others that unable to have them provided by the town....”

It appears that those who were armed by the town under the March 22 statute were to reimburse the town “when they shalbe able.”⁹ It is unclear whether “5th of Aprill nexte” meant the following month, or the following year, but in either case, there seems to be no great concern that guns were in short supply—and no apparent fear of the general

⁷ J. Franklin Jameson, ed., *Johnson’s Wonder-Working Providence: 1628-1651* (New York: Barnes & Noble, Inc., 1959), 175. Nathaniel B. Shurtleff, *Records of the Governor and Company of the Massachusetts Bay in New England* (Boston: William White, 1853), 1:211-12, gives the disarming orders.

⁸ William Brigham, ed., *The Compact with the Charter and Laws of the Colony of New Plymouth...* (Boston: Dutton and Wentworth, 1836), 31.

population being armed. Indeed, the fear was that the population would not own enough guns to defend the colony.

The March 22, 1630/1 statute was modified two years later, on March 6, 1632/3. Any single person who had not provided himself with acceptable arms would be compelled to work for a master. The work earned him the cost of the arms provided to him.¹⁰

What sort of arms? The 1630/1 statutes are not specific that “arms” meant guns. These orders *could* be read as requiring everyone to be armed with swords, halberds, or pikes. But as will be seen, the other statutes adopted in the following years, especially the March 9, 1636/7 statute requiring everyone to bring their muskets to church, shows that “arms” meant guns.

Guns were apparently widely distributed among the population, and available for purchase in Massachusetts Bay. An April 5, 1631 directive ordered every man that “findes a musket” to have ready one pound of gunpowder, “20 bullets, & 2 fathome of match...” (“Match” being the slow burning material used to light matchlock guns.) Militia captains were ordered to train their companies every Saturday. Perhaps the ultimate statement about the level of trust of their population, is the order that no person was to travel singly between Massachusetts Bay and Plymouth, “nor without some armes, though 2 or 3 togeathr.”¹¹

A March 9, 1636/7 ordinance takes an even stronger position requiring individuals be armed, and demonstrates that gun ownership was believed to be common. Because of the danger of Indian attack, and because much of the population was neglecting to carry

⁹ Shurtleff, 1:84.

¹⁰ Shurtleff, 1:93.

guns, every person above eighteen years of age (except magistrates and elders of the churches) were ordered to “come to the publike assemblies with their muskets, or other peeces fit for servise, furnished with match, powder, & bullets, upon paine of 12*d.* for every default.... And no person shall travel above one mile from his dwelling house, except in places wheare other houses are neare together, without some armes, upon paine of 12*d.* for every default....”¹² (The fine of twelve pence, while not a lot of money even then, should have been sufficient to get a colonist’s attention.) The requirement to bring guns to church—but apparently not the requirement to travel armed—was repealed November 20, 1637.¹³

A September 3, 1634 order specifies that every trained soldier, “as well pykemen as others, shalbe furnished with muskets... powder and shott, according to the order for musketeers....”¹⁴ While this order is not specific that the soldier is subject to fine for failing to furnish *himself* with arms, this is certainly who is obligated by the March 22, 1630/1, April 5, 1631, and March 6, 1632/3 orders.¹⁵ At least some towns in Massachusetts Bay Colony also imposed fines for failing to own arms and ammunition.¹⁶

Unsurprisingly, since Connecticut was settled by Massachusetts Puritans, Connecticut's 1650 code ordered that everyone “above the age of sixteene years, except magistrates and church officers, shall bear arms....; and every male person with this

¹¹ Shurtleff, 1:85.

¹² Shurtleff, 1:190.

¹³ Shurtleff, 1:210.

¹⁴ Shurtleff, 1:125.

¹⁵ Shurtleff, 1:84, 85, 93.

¹⁶ Joseph H. Smith, ed., *Colonial Justice in Western Massachusetts (1639-1702): The Pynchon Court Record, An Original Judges' Diary of the Administration of Justice in the*

jurisdiction, above the said age, shall have in continual readiness, a good musket or other gun, fit for service, and allowed by the clerk of the [militia] band....” [spelling modernized]

Much like Massachusetts, poverty was not an excuse for not owning a gun. If you claimed that you were too poor to buy a gun, the militia clerk would sell you one. You were supposed to bring corn or other sellable goods to the clerk, who would issue you a weapon, and then sell the goods that you brought. Just to discourage you from not even *trying* to buy a gun on your own, the law allowed the clerk to charge you as much as 20% above the market price.¹⁷

Unfortunately, just like today, there were a few people in New England who were not as careful with their guns as they should have been. A statute adopted at the Massachusetts 1713-14 legislative session complained, “Whereas by the indiscreet firing of guns laden with shot[t] and ball within the town and harbour of Boston, the lives and limbs of many persons have been lost, and others have been in great danger, as well as other damage has been sustained,” the firing of any “gun or pistol” in Boston (“the islands thereto belonging excepted”) was prohibited.¹⁸ Today we know better, and make sure of our backstop before opening fire.

It is rather interesting, if guns were actually scarce in Colonial America, as Professor Bellesiles’s recent book *Arming America* claims, that so many “lives and limbs” had been

Springfield Courts in the Massachusetts Bay Colony (Cambridge: Harvard University Press, 1961), 124.

¹⁷ *Code of 1650, Being a Compilation of the Earliest Laws and Orders of the General Court of Connecticut* (Hartford, Conn.: Silas Andrus, 1822), 72-73.

¹⁸ *Acts and Resolves, Public and Private, of the Province of the Massachusetts Bay...* (Boston: Albert J. Wright, 1878), 3:305-6.

lost as a result of careless shooting. This *might* be an argument that Boston needed gun control laws in 1713; it certainly doesn't sound like guns were scarce.

“The past is another country” is a phrase often used to remind us that the way people lived in the past was different from the way that they live today. It is amusing to think that where today the government of Massachusetts does its best to discourage gun ownership, only three centuries ago, it did its best to make sure that everyone owned a gun.

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