A Comparative Analysis of the Politics of Gun Control in the United States and Australia

Nicholas Leone

Follow this and additional works at: https://crossworks.holycross.edu/honors

Part of the American Politics Commons, Australian Studies Commons, Comparative Politics Commons, Legislation Commons, Second Amendment Commons, and the United States History Commons
A Comparative Analysis of the Politics of Gun Control Legislation in

the United States and Australia

Nick Leone

May 4, 2020
Abstract

This thesis centers on the interrelationships and differences in firearm legislation and culture within the United States of America and Australia. As a result of the Port Arthur Massacre on April 28, 1996, Australia was faced with an unprecedented mass shooting that completely shifted Australian politics and culture regarding firearm safety and availability. Thus, the thesis inquires into the effectiveness of Australia’s buyback program as well as the cultural and political factors that allowed for such legislation to be passed. After suffering 118 mass shootings in the U.S. since 1982, the history of the United States regarding gun control is one of inaction. Overall, that is why the core of my thesis is rooted in the culture of each nation regarding firearms; it determines what about Australia created an environment amicable to gun control that seems impossible in the U.S. The answer to this question rests in many factors: the history of each nation, the role of lobby groups (such as the NRA), the structure of government, public opinion, and the rights of citizens (the Second Amendment). Balancing all of these factors, this thesis acknowledges that the U.S. could not have as drastic a policy response as that of Australia, but the U.S. can easily implement effective firearm safety measures that cuts through the partisanship divide of gun rights activists and pro-gun control lobbyists.
# Table of Contents

*Introduction – Why Guns?* .......................................................... 4

*Chapter I: Stick ‘Em Up! The History of Gun Violence in the United States* .......... 7
  A. History of the Second Amendment in the U.S. ........................................ 7
  B. 1994 Assault Weapon Ban and its Implications on U.S. Gun Legislation and Violence.15

*Chapter II: Down Under! The History of Australian Gun Violence* .................... 29
  A. History of Gun Legislation and Violence in Australia before Port Arthur..........29
  B. Port Arthur Massacre and its Implications on Gun Legislation and Violence........43
  C. The Current State of Gun Legislation and Violence in Australia..................... 50

*Chapter III: The Culture Question* .................................................................. 58
  A. Analysis of Australia’s Structure of Government ........................................ 59
  B. History of Australia’s Colonization .............................................................. 62
  C. What is Australian (firearm) nationalism? ................................................... 65
  D. America’s Colonial Legacy of Firearm Culture ............................................ 71
  E. The Unstoppable NRA ................................................................................. 73

*Chapter IV: Where does one go from here?* ................................................... 77

*Bibliography* ................................................................................................. 87
Introduction – Why Guns?

Ranging from pro-gun lobby groups, to media outlets, and even to one’s estranged uncle, the common argument of “guns don’t kill people; people do,”1 is constantly thrown around in American culture. While many Americans do not view their gun laws as unusual compared to those of other countries, the rest of the world recognizes the distinctiveness of the fervor that U.S. gun culture radiates.2 Since 1789, twenty-four constitutions from nine different nations have contained some sort of mention to gun rights, and since World War II no country has written a constitution that includes such a right.3 Currently, the United States, Guatemala, and Mexico are the only remaining countries that guarantee the right to bear arms, yet the U.S. Constitution is the only constitution that omits any written conditions under which the government can regulate arms and munitions.4

As a result, the crux of this thesis revolves around the question of culture and whether it drives law and policy or vice versa. Australia was chosen for this comparative analysis with the United States, for in 1996 Australia suffered a devastating mass shooting committed by a lone gunman with enormous legal firepower. Unlike the United States which has been faced with 118 mass shootings since 1982 with no substantive additions to nation-wide gun control legislation,5 Australia treated its one respective mass shooting

---

4 Id.
5 For this thesis, mass shootings are defined in line with the FBI’s definition. Up until 2013, this entailed a single attack in a public place with 4 victim deaths. Since 2013, the baseline has been lowered to 3 victim deaths. See Mark Follman, Gavin Aronsen and Deanna Pan, “US Mass Shootings, 1982-2019: Data From
as the breaking point that ushered in changes to their nation’s gun laws.\textsuperscript{6} As Australian journalist A. Odysseus Patrick expresses, “We Australians have a profoundly different relationship with weapons. Americans love guns. We’re scared of them.”\textsuperscript{7} Therefore, this thesis is interested in how one “western” democracy, Australia, could accomplish such a degree of gun control while a similar western democracy, the United States, is incapable of doing so. It integrates the history of gun legislation and mass shootings in the United States and Australia alongside culture, history, public opinion, and possible future policy outcomes for the United States to understand the causal factors leading to different gun policies in Australia and the U.S.

The thesis’ first chapter examines the respective history of gun legislation, violence, and culture in the United States of America. Afterwards, the second chapter takes the exact same course as the first but applies it to Australia. In laying out the framework of gun policy and politics juxtaposed with culture, the thesis attempts to scrutinize how the Australian Government managed to act swiftly on the matter whereas the issue of gun control in the U.S. is violently partisan. Then, chapter three analyzes culture and its impact on gun legislation across the two countries. It lays out the structure of the Australian and U.S. governments before scrutinizing the effect of colonization and nationalism. Lastly, chapter four looks at the possible policies the United States could adopt to fix its current nationwide problem of firearm violence. After acknowledging that the U.S. cannot follow in the footsteps of Australia’s policy and should not simply


continue to do nothing about the issue, the thesis concludes with a list of possible policy ideas that would preserve gun owners’ rights while also further safeguarding the security of all people.

In sum, the overarching thesis question is, “What made Australia’s gun culture so much more favorable to gun control than the gun culture of the United States? From this initial question, numerous sub-questions arise. First, did the Port Arthur Massacre in April 1996 and Prime Minister John Howard’s response reshape Australia’s culture of mass shootings and attitudes towards firearms, or did it merely act as a band-aid solution in a time of homogeneity that failed to counter violence? As a result, with the stark increase of mass shootings in the United States of America in the 21st century, would a U.S. response like Australia’s be feasible, rational, and supported? Or, would America’s strong gun culture and polarization, fueled by gun lobbies such as the National Rifle Association, and the presence of the 2nd Amendment with its recent judicial interpretation, prevent major changes to U.S. law?
Chapter I: Stick ‘Em Up! The History of Gun Violence in the United States

A. History of the Second Amendment in the U.S.

The Second Amendment serves as the foundation for an American culture rooted in the proliferation of firearms. Before 2008, the Second Amendment was historically perceived by the majority of judges, academics, and lawyers to entail a right to bear arms that could be regulated by the state governments. However, because of the nature and power of judicial interpretation, the Supreme Court was capable of reinterpreting the Second Amendment to give power to the citizens of the U.S. to be able to obtain and hold guns as individuals. In 2008, the Supreme Court’s ruling in District of Columbia v. Heller massively shifted the narrative of what the Second Amendment means.

Under District of Columbia law, it was a crime to carry an unregistered firearm, and the registration of handguns was forbidden thereby making handgun possession illegal. A D.C. special policeman, Dick Heller, attempted to register a handgun he wished to keep at home, but the District refused. After filing a suit on Second Amendment grounds, the case made it to the Supreme Court where it ruled in a 5-4 vote that the Second Amendment protects the right to bear arms for “the core lawful purpose of self-defense.” In addition, the majority opinion of the Court written by Justice Scalia struck down opposing arguments emphasizing the requirement for firearm possession to

---

11 Id.
12 Id.
be linked with service in a “well-regulated militia.” The Supreme Court held, “The Second Amendment protects an individual right to possess a firearm unconnected with service in a militia, and to use that arm for traditionally lawful purposes, such as self-defense within the home;”\textsuperscript{13} thus, the Court broke the Second Amendment up into its prefatory and operative clauses underlying the prefatory clause’s inability to limit or expand the scope of the operative clause.\textsuperscript{14} Although District of Columbia v Heller shifted the Supreme Court’s interpretation of the Second Amendment, it failed to provide an all-encompassing view of what the Second Amendment entails for U.S. citizens. Within the opinion of the Court, the Court claims, “One should not expect it [D.C. v Heller] to clarify the entire field.”\textsuperscript{15} This inability of the Supreme Court to wholesomely define its stance on the Second Amendment has caused federal courts to struggle in analyzing Second Amendment cases, yet the Supreme Court has not intervened to provide any clarity on the confusion.\textsuperscript{16}

Nevertheless, two years after District of Columbia v Heller, the Supreme Court once again upheld handgun ownership on Second Amendment grounds in the case McDonald v Chicago (2010).\textsuperscript{17} Following the ruling in Heller, petitioners filed a federal suit against the City of Chicago for its laws which effectively banned handgun possession by almost all private citizens.\textsuperscript{18} The petitioners held that Chicago’s handgun ban had left them vulnerable to criminals and was a violation of the Second and Fourteenth Amendments, but the federal court refuted this charge asserting that Heller had not

\textsuperscript{13} Id.
\textsuperscript{14} Id.
\textsuperscript{15} Id at 630.
\textsuperscript{17} 561 U.S. 742 (2010).
\textsuperscript{18} Id.
commented on whether the Second Amendment applied to the States. After reaching the Supreme Court, Justice Alito delivered the opinion of the Court reaffirming the ruling in *Heller* that “the Second Amendment protects the right to keep and bear arms for the purpose of self-defense,” and the Court added that since the Court had “previously held that most of the provisions of the Bill of Rights apply with full force to both the Federal Government and the States… we hold that the Second Amendment right is fully applicable to the States.” Hence, to justify the Second Amendment’s authority over state governments, *McDonald v Chicago* intertwined the Fourteenth Amendment’s Due Process clause alongside the Second Amendment’s right to bear arms. Inevitably, on the grounds that the Court has guaranteed protections to most of the provisions of the Bill of Rights under the Due Process Clause, the opinion of the Court enforced the Second Amendment against the States under the same standards to protect these personal rights against federal encroachment. With regard to protecting a citizen’s individual liberties that come with the Second Amendment, the Supreme Court made the right ruling in these cases.

Now, in criticizing the Supreme Court’s recent rulings on the Second Amendment in comparison to the Court’s precedent prior to *District of Columbia v Heller*, this thesis raises the views of early Americans before juxtaposing their stances with the dissenting opinions of *District of Columbia v Heller*. Since *Heller* stands as a powerful example of the way that American gun culture has reshaped gun jurisprudence, the rulings of *Presser*

---

19 Id.
20 Id at 749-50.
21 The Fourteenth Amendment states: “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of laws.” U.S. Const. Amend. XIV.
v Illinois (1886), U.S. v Miller (1939), and Lewis v U.S. (1980) are raised to express the shift in Supreme Court precedent regarding the Second Amendment.

William Rawle was an American lawyer who served as U.S. District Attorney for Pennsylvania in the 1790s after being appointed by George Washington.23 Within William Rawle’s view of the U.S. Constitution in 1829, he portrayed, “No clause in the Constitution could by any rule of construction be conceived to give to congress a power to disarm the people. Such a flagitious attempt could only be made under some general pretence by a state legislature.”24 As a result, while Rawle stresses the federal government’s inability to disarm the people, he illustrates the necessity of states to adopt regulations that prevent both a disorderly militia and an assemblage of persons with arms for an unlawful purpose in order to “make good soldiers with the least interruptions of the ordinary and useful occupations of civil life.”25

Rawle’s position mirrors that of Justice Stevens in D.C. v Heller, for William Rawle places the Second Amendment as a restraint on the federal government, not necessarily on the state governments, to disarm the people “in any blind pursuit of inordinate power.”26 In a similar manner, Justice Stevens starts by highlighting the Founders’ intention for the Second Amendment to ensure the people of each state could maintain a well-regulated militia due to concerns raised during the ratification of the Constitution that Congress may attempt to disarm state militias to create a national

25 Id.
26 Id.
standing army that would threaten the sovereignty of the several States. Therefore, the Second Amendment text and the arguments made by its proponents had no intention to limit the state legislature’s authority to regulate private civilian uses of firearms or to enshrine a doctrine of self-defense in the Constitution. In light of Justice Steven’s dissent, it is clear that the District of Columbia’s prohibition of handgun ownership is not a blind pursuit of inordinate power, but rather it is an attempt to combat the egregious nature of handgun violence in the City which is committed by an assemblage of persons with arms for an unlawful purpose.

In fact, Justice Breyer’s dissent in District of Columbia v Heller makes mention of colonial state governments’ actions to regulate firearm use. Boston, Philadelphia, and New York City all restricted the firing of guns within city limits to some degree. Along with these three cities, several other towns and cities not only regulated the storage of gunpowder but also prohibited the carrying of loaded firearms anywhere in the city, unless the carrier did not plan on entering a building with a loaded firearm. Altogether, through the inclusion of this historical evidence, Justice Breyer demonstrates that “a self-defense assumption is the beginning, rather than the end, of any constitutional inquiry.” While retaining the self-defense right serves to protect the Second Amendment, it fails to acknowledge the law’s rationale and the problems it is responding to; by banning handguns completely, law enforcement officers can immediately assume that any

---

28 Id.
30 Id at 683.
31 Id at 684-5.
32 Id at 687.
handgun in someone’s possession is illegal thus significantly reducing the number of handguns in D.C. and alleviating the recorded problem of handgun violence in D.C.33

In *Presser v Illinois* (1886), Herman Presser attempted to file a case against the state of Illinois for indicting him on charges that he violated the Military Code of Illinois by marching with an armed body of men without a license.34 Here, the Supreme Court ruled that the Second Amendment is “a limitation only on the power of Congress and the national government, and not of the States.”35 Moreover, the Court also ruled that the Fourteenth Amendment does not “prevent a State from passing such laws to regulate the privileges and immunities of its own citizens as do not abridge their privileges and immunities as citizens of the United States.”36 This ruling clearly runs counter to the current rhetoric of the Supreme Court in both *Heller* and *McDonald*, yet a modern self-defense narrative has trumped previous judicial precedent to strip states of their right to maintain overarching firearm regulations.

Next, in deciding the extent to which the federal government may regulate the ownership of firearms by citizens, *U.S. v Miller* (1939) upheld the indictment of Jack Miller and Frank Layton for knowingly and willfully transporting an unregistered sawed-off shotgun less than eighteen inches in length.37 Under the National Firearms Act of 1934, the Act imposed a tax on the making and transfer of certain firearms and required U.S. citizens to register all NFA firearms with the Secretary of Treasury; these certain firearms included shotguns and rifles with barrels less than eighteen inches in length and

33 Id at 687, 711.
34 116 U.S. 252 (1886).
35 Id.
36 Id.
certain other weapons such as machineguns, firearm mufflers, and silencers.\textsuperscript{38} In citing the National Firearms Act, \textit{U.S. v Miller} affirmed that it was neither an invasion of the reserved powers of the States for the federal government to regulate certain firearms nor did it violate the Second Amendment, for the firearms in question had no “reasonable relation to the preservation or efficiency of a well-regulated militia.”\textsuperscript{39} Overall, this power for government to regulate criminal firearm behavior carries over to the majority opinions in \textit{Heller} and \textit{McDonald}. Justice Scalia expresses:

“Like most rights, the Second Amendment right is not unlimited… The Court’s opinion should not be taken to cast doubt on long standing prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms. \textit{Miller}’s holding that the sorts of weapons protected are those “in common use at the time” finds support in the historical tradition of prohibiting the carrying of dangerous and unusual weapons.”\textsuperscript{40}

Hence, the majority opinion acknowledges government’s power to regulate firearms in certain circumstances without infringing on individual rights.

Within \textit{Lewis v U.S.} (1980), George Calvin Lewis Jr. filed a suit against the U.S. for preventing him from owning a firearm due to a previous felony conviction.\textsuperscript{41} Ultimately, the Court upheld the previous rulings on the case attesting that the Gun Control Act of 1968, which prohibited felons from owning firearms, was constitutional.\textsuperscript{42} In applying a “rational basis” standard, the Court defended the necessity for felons to first receive pardon for their felony status before obtaining a firearm.\textsuperscript{43} Consequently, this prevention of felons to acquire a gun fulfills “Congress’ purpose to keep firearms away

\begin{footnotesize}
\begin{itemize}
\item[38] Bureau of Alcohol, Tobacco, Firearms, and Explosives, “National Firearms Act,” \textit{ATF}, 1934.
\item[40] 554 U.S. 571 (2008).
\item[41] 445 U.S. 55 (1980).
\item[42] Id.
\item[43] Id.
\end{itemize}
\end{footnotesize}
from persons classified as potentially irresponsible and dangerous” thus emphasizing the
government’s ability to restrict the rights of individuals who violate U.S. law.44

Within cases before *Heller*, the Supreme Court managed to visibly draw lines
where firearm regulations were constitutional or unconstitutional. Because the Bill of
Rights only applied to the federal government during these initial cases, the Court upheld
firearm regulations on the basis that the Second Amendment did not apply to the states.
Since the Bill of Rights has now been applied to the states following the Fourteenth
Amendment, *Heller* and *McDonald* have created a new precedent where a Second
Amendment right to self-defense in conjunction with firearm ownership cannot be
infringed upon at the state or federal level.

In sum, the history of the Second Amendment in the United States’ judicial
system and culture demonstrates the discrepancies of the present-day rulings of the
Supreme Court that stress self-defense and deregulation of firearms at a state and federal
level compared to the history of Supreme Court precedent that acknowledged the abilities
of the state and federal governments to regulate and limit Second Amendment rights for
the safety and security of the nation. Overall, when politically charged in the modern era,
the “right to keep and bear arms” has struck a chord with people of very different
backgrounds, experiences, and cultures albeit a nation’s previous history of regulation.45

---

44 Id.
B. 1994 Assault Weapon Ban and its Implications on U.S. Gun Legislation and Violence

On September 13, 1994, Congress passed the Violent Crime Control and Law Enforcement Act of 1994; under Title XI – Firearms, this act contained the Public Safety and Recreational Firearms Use Protection Act, referred to as the Federal Assault Weapons Ban which was signed by then-President Bill Clinton.\(^{46}\) Here, the Federal Assault Weapons Ban ties into the jurisprudence of the previous section, for the ban stands as the last attempt at substantive, national firearm regulation before the ruling of \textit{D.C. v Heller}. Following the new precedent in \textit{Heller} and \textit{McDonald}, it is challenging for the federal government to enact national firearm regulations without infringing on one’s constitutional rights. While it is presently hard to pass something to the same degree as the Federal Assault Weapons Ban, the Court made clear in \textit{Heller} that “the Second Amendment right is not unlimited;”\(^{47}\) as a result, there is a broad scope of possible measures the American government could take to regulate gun ownership rather than outright stripping certain guns from the hands of all gun owners. Altogether, this section studies the effectiveness of the Federal Assault Weapons Ban and teases out flaws the ban had that prevented it from operating substantially better.

First and foremost under section 110102, the Federal Assault Weapons Ban made it illegal for a person “to manufacture, transfer, or possess a semi-automatic assault weapon.”\(^{48}\) However, this first clause did not apply to the possession or transfer of any semi-automatic assault weapon that was lawfully possessed on the date of the act’s enactment and to any unlawful firearms specified in Appendix A of the act that were


\(^{47}\) 554 U.S. 571 (2008).

manufactured on October 1, 1993.\textsuperscript{49} In defining a semi-automatic assault weapon, the act stated “any of the firearms or copies or duplicates of the firearms in any caliber, known as…” which then proceeded to cherry-pick the names of roughly nineteen gun models.\textsuperscript{50} Further, it concluded its list of unlawful guns by banning semi-automatic rifles, pistols, and shotguns with the ability to accept a detachable magazine along with at least two modifications to the gun, such as a folding or telescoping stock, or a pistol grip that protrudes conspicuously beneath the action of the weapon, to name a few regulations.\textsuperscript{51} On the whole, by cherry-picking the types of gun models that would be banned, the Federal Assault Weapons Ban assumes that these nineteen models are the largest cause of mass shootings. The flaw here, however, is that the ban narrowly defined semi-automatic assault weapons and restricted the definition to only nineteen gun models; therefore, gun manufacturers could slightly alter the make of gun to circumvent the ban.

Afterwards, in section 110103, the Federal Assault Weapons Ban prohibited the transfer and possession of large capacity ammunition feeding devices, but as with section 110102, the new law did not apply to the possession or transfer of large capacity ammunition feeding devices on or before the date of enactment.\textsuperscript{52} While it is problematic for the overall potency of the gun regulation that the law did not apply to guns purchased before the date of enactment, it is impossible to make possible in the U.S. as it would constitute an ex post facto law. Consequently, large capacity ammunition feeding devices were defined as “a magazine, belt, drum, feed strip, or similar device manufactured after the date of enactment… that has a capacity of, or that can be readily restored or converted

\textsuperscript{49} Id at 202. \\
\textsuperscript{50} Id at 202-3. \\
\textsuperscript{51} Id at 203. \\
\textsuperscript{52} Id at 204.
to accept, more than 10 rounds of ammunition.” In all, before ending the act with an appendix of all the gun model names that were banned, section 110105 stipulated that the amendments would take effect on the date of the enactment of the Violent Crime Control and Law Enforcement Act of 1994 and would be repealed ten years after said date.

In analyzing both the benefits and shortcomings of the Federal Assault Weapons Ban, this thesis looks to the flawed nature of the ban before moving on to discuss its actual implications on gun violence and culture. Writing immediately after the passage of the ban in 1994, Craig Albert, an associate law professor at Seton Hall University in the 1990s, argued that the assault weapons ban would not work due to a major loophole in the substance of the law that assured there would be no federal prosecutions for assault weapon possession. Because the law held that it was legal for citizens to possess or transfer an assault weapon that was lawfully owned preceding the passage of the ban, the U.S. government would have to prove the entire chain of custody of the weapon in question, yet there is no national recordkeeping requirement for gun sales at a federal level making it burdensome for law enforcement to identify offenders. Furthermore, the expiration of the ban ten years after its enactment also debilitates the effectiveness of the assault weapons ban as it only acted as a ten-year ban on the manufacture and importation of said weapons. In reality, the restrictions on the Federal Assault Weapons Ban’s effectiveness resulted from the pro-gun lobby groups and politicians that forced the ban to retain numerous caveats restricting its increased success. On top of the flaws

---

53 Id.
54 Id at 205.
56 Id.
57 Id.
mentioned by Albert, the gravest error of the Federal Assault Weapons Ban was failing to put forth an accurate, concise definition of assault weapons that could apply across the board to all gun manufacturers, so instead, the lawmakers had to pick and choose which models and brands would be excluded.58

This was not the first time historically that a failure to define assault weapons had muddled gun control policy and led to loopholes in the legislation rendering it not as effective. In writing in 1992 on the nature of assault weapons and the NRA’s enormous strength in molding public opinion towards them, Josh Sugarmann argued that the increased popularity of semi-automatic assault weapons appealed to the worst instincts of gun owners following the Stockton massacre in 1989.59 Here, Patrick Purdy, who was a 24 year old with an extensive history of drugs and weapons, entered Stockton’s Cleveland Elementary School armed with an AK-47 and a 9mm Taurus pistol killing five children and wounding 29 others.60 Purdy had legally purchased the AK-47 in Oregon and purchased the pistol in California; since he had never committed a felony, he was able to purchase these guns with no red flags raised about his criminal behavior.61 As a result, following the events of Stockton, assault weapons became entrenched in debate that led to a stalemate in policy as the NRA challenged any ordinance passed towards stricter gun laws.

While semi-automatic firearms could be purchased as easily as a hunting rifle since they did not fall under the National Firearms Act, their massive capacity to kill and their

60 Id 201.
61 Id 202.
appeal to paramilitary groups, gang members, and drug dealers led to public outcry for restrictions on the nature of semi-automatic weapons.\(^{62}\) While the NRA continued to crush any legislation from arising in Congress that would limit semi-automatic weapons rights by sending politically charged warnings to their base of supporters, the DeConcini bill, drafted by Arizona Democrat Dennis DeConcini, was raised in 1990 calling for the ban of nine specifically named foreign and domestic assault weapons.\(^{63}\) By specifically naming the brands and makes of assault weapons that would be banned, the bill could easily be circumvented if companies developed slightly different guns with different names, so when voted upon in May 1990, the bill was swiftly defeated.\(^{64}\) Nonetheless, this error of failing to define semi-automatic weapons and instead naming models and brands that would be banned was reiterated in the Federal Assault Weapons Ban four years later. Taking this into account, in determining the future of gun policy in the U.S., politicians should be cognizant that watered down legislation will do nothing to fix the issue of gun violence. On the other end, extreme gun control policies that attempt to ball all guns, not just semi-automatic or automatic weapons, are also infeasible as they violate Second Amendment rights. Thus, policies have to be pursued that allow gun owners to maintain their right while also making sure that firearms are properly regulated as to not be utilized for mass shootings or incessant violence.

The federal government in 1993 also attempted to prevent the rapid sale of guns to citizens who constituted a potential threat by enacting the Brady Act, which required federally licensed firearms dealers to conduct background check on all potential firearm

\(^{62}\) Id 203-5.  
\(^{63}\) Id 213.  
\(^{64}\) Id.
This tied into the pre-Heller view of the Second Amendment, for the government was allowed to regulate civilian’s ownership of firearms without infringing upon Second Amendment rights. To comply with the Brady Act, the FBI instituted the National Instant Criminal Background Check System (NICS), a centralized category of national records that contains information about individuals’ criminal and mental health histories as well as any civil order entered against them that may affect their eligibility of buying or owning a gun.66

Lastly, in light of both the legal language of the Federal Assault Weapons Ban and arguments against its effectiveness, this thesis now analyzes statistical data conducted by John Donohue and Theodora Boulouta in 2019 which determines the influence that the Federal Assault Weapons Ban had in reducing the extent of gun violence and mass shootings in the U.S.67 In defining a mass shooting as an incident where a gunman massacres at least six people in public while excluding crimes of armed robbery and gang or domestic violence, they found that compared with the decade before the Federal Assault Weapons Ban’s adoption there was a 25% drop in gun massacres (from eight to six) and a 40% drop in fatalities (from 81 to 49) during the period of the ban.68 Since assault weapons are legal in 43 states and large-capacity magazines capable of holding more than 10 rounds are legal in 41 states, it is evident that the ban impeded the easy access to this lethal weaponry.69 Now, despite overall violent crime rates descending in

65 18 U.S.C. § 922(s).
68 Id.
69 Id.
the U.S., the proliferation of incredibly powerful assault weapons a decade after the expiration of the ban has been met with a baffling 347% increase in fatalities in gun massacres. More shockingly, in the past five years since 2014, the average number of people who die in a gun massacre has increased by 81%, and at least 234 of the 271 people who have died in gun massacres since 2014 were killed by weapons previously prohibited under the federal assault weapons ban as 11 of the 15 gun massacres have involved an assault weapon. Based on the success of the Federal Assault Weapons Ban in reducing the prevalence and magnitude of mass shootings in the U.S., Donohue and Boulouta conclude:

“We should enact a comprehensive federal assault weapons ban and limit on high-capacity magazines, repeal the federal immunity statute and create a more comprehensive and effective background check and red-flag system to ensure that the growing power of advanced weaponry is not readily available to dangerous individuals.”

Clearly, the Federal Assault Weapons Ban succeeded in alleviating the loss of life caused by the spreading and misuse of semi-automatic weapons. Though the ban retained certain flaws that the pro-gun politicians and lobbyists infused it with, the radically heightened degree and breadth of mass shootings and their lethality in the present day proves that some degree of imperfect regulation is better than nothing at all. The question remains, however, why there have been no substantive attempts at increasing regulation. Ultimately, this issue boils down to the state of politics in the U.S. With radical gun rights groups on one side and extremist gun control groups on the other constantly attracting the most attention, it is challenging for policies to be pursued that strike

---

70 Id.
71 Id.
72 Id.
between the two sides, for these extremes are what draw the most media attention and guide public debates.

C. The Current State of Gun Violence and Policy in the U.S.

The United States ranks first in the world for private firearm ownership with an estimated total number of civilian guns, both licit and illicit, ranging from 265,000,000 to 393,347,000 as of 2017 figures.\(^73\) In taking into account population differences by comparing the rate of civilian firearm possession per 100 people in the U.S. and Australia, Australia pales in comparison to the United States, which boasts a rate of 120.5 privately owned firearms per 100 people to Australia’s 13.7 per 100.\(^74,75\) This alone suggests an immense cultural difference. Lacking a Second Amendment equivalent, Australia has managed to enact radically stricter gun laws than the United States without the possibility of the High Court of Australia striking it down on some constitutional claim.

\(^74\) Id.
As of 2020 so far, the United States retains no federal laws “banning semi-automatic weapons, military-style .50 caliber rifles, handguns, or large-capacity magazines,” and in relation to this it also has the highest homicide-by-firearm rate among the world’s most developed nations. With a lack of federal regulations on firearms, states retain the right to regulate firearms within the scope of the Second Amendment. Subsequently, in spelling out these disparities between different states’ regulations on firearms, it is first important to note that from 1991 to 2016 there was an observed 57% increase in the number of enacted state firearm provisions nationwide; however, this increase can only be attributed to the actions of a few states (CT, CA, MA, MD, and NY) as most other

---

states only had slight increases, and sixteen states even repealed more provisions than were enacted.\textsuperscript{78} This speaks wonders to the failure of numerous states in combating gun violence and monitoring the backgrounds of individuals who purchase a gun, for in some states an individual is capable of purchasing a semi-automatic rifle in less than 10 minutes.\textsuperscript{79}

The main way the government regulates which individuals can purchase a gun is through a background check enforced by the National Instant Criminal Background Check System. Under the Brady Bill, all licensed sellers are required to conduct a background check of potential buyers before selling them a firearm. The largest flaw with the federal background check requirement, however, is that it allows unlicensed sellers, whether online, at gun shows, or anywhere else without a federal dealer’s license, to transfer firearms without running any background check and with no questions asked.\textsuperscript{80} This is a problem because guns are not toys; if individuals attempt to purchase guns who are prohibited from doing so due to criminal charges, sellers should know this to avoid giving guns to dangerous individuals. With an estimated 22\% of U.S. gun owners acquiring their most recent firearm without any background check, this means that millions of Americans are stockpiling millions of guns without any regulation on the character and history of the gun owner.\textsuperscript{81} On top of this, 80\% of all firearms bought with the intent of committing criminal actions are done so through unlicensed sellers, and 96\% of criminals with previous gun offenses that are prohibited from possessing a firearm are

\textsuperscript{80} Giffords Law Center, “Universal Background Checks,” 2019.
\textsuperscript{81} Matthew Miller, Lisa Hepburn and Deborah Azrael, “Firearm Acquisition Without Background Checks,” \textit{Annals of Internal Medicine} 166, no. 4 (2017): 233–239.
able to easily circumvent the background check as a result of unlicensed sellers’ lack of questioning or regulation.\textsuperscript{82} While 21 states including Washington D.C. have extended the background check requirement beyond federal law to private sales in varying degrees, the other remaining 29 states have failed to reconcile the issue. This dichotomy of each state’s gun legislation is the driving factor preventing consequential action from being taken to reduce mass shootings in the U.S.

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{figure2.png}
\caption{Firearm-related mortality rates, legislative strength scores, and total firearm deaths in the United States, 2007 through 2010.\textsuperscript{83}}
\end{figure}

The states with the least laws had an absolute rate difference of 6.64 firearm-related deaths/100,000 per year compared to 0.40 firearm-related deaths/100,000 per year in states with the most laws.\textsuperscript{84} While the question of culture at a national level is critical in juxtaposing the U.S. with Australia, it is important not to underplay the culture and

\textsuperscript{82} Giffords Law Center, “Universal Background Checks,” 2019.
\textsuperscript{83} Id 735.
\textsuperscript{84} Id 735-6.
attitudes towards firearms at a state level, for Fleegler et al. notes that differences in states’ culture “may confound the association between firearm ownership and firearm legislation.”

Altogether, the current state of gun violence and policy in the United States is one of continued violence with trivial policy responses. Nevertheless, recent public opinion polls by Pew Research are fairly telling of how Americans are shifting towards a mindset of supporting some gun regulations. As reproduced in the chart below, the majority of individuals from both conservative and liberal backgrounds support gun regulations that prevent mentally ill individuals from buying guns, require background checks at private sales, and bar people who are on federal no-fly watch lists from buying a gun. Even though both sides cannot come to an agreement on all aspects of firearm regulation, it’s important to capitalize on this area of agreement to pursue policies that make guns safer without infringing on one’s rights. However, despite public opinion showing one thing, it’s important to take into account the powerful actors that shape the gun control debate such as the NRA. By embodying these partisan interests that may run counter to public opinion, the NRA uses its political clout to staunchly defend a hardline view of the Second Amendment.

---

85 Id 739.
87 Id.
Altogether, the concern is at what point will our American government and all of its citizens come together as a unified front to tackle this issue? While Americans struggle to combat this issue on their home front, it is obvious the tweets of “thoughts and prayers to the victims’ families” will not reconcile the problem, so American politicians must reexamine the laws and culture while looking towards neighboring countries to figure out
what concrete coping mechanisms may work. In the present leadup to the 2020 Presidential Election, many Democratic candidates had established plans for gun control. With Joe Biden as the Democratic candidate, he has previously expressed interest in pushing to create universal background check, to reinstate the assault weapons ban, and to enact a voluntary buyback program of assault weapons. As the election rapidly approaches, it will be interesting to see if gun control is raised in any manner throughout debates and if any substantive action is achieved following the election’s results.

---

Chapter II: Down Under! The History of Australian Gun Violence

A. History of Gun Legislation and Violence in Australia before Port Arthur

Before analyzing Australia’s unique history of gun legislation, violence, and culture, it is necessary to lay out the scholarly understanding of what defines a mass shooting. In briefly clarifying how the definition of a mass shooting has evolved through time, Philip Alpers explains how a mass shooting was understood in the 1990s:

“The common definition of a ‘mass shooting’ in 1996 was five or more victims killed by gunshot in proximate events in a civilian setting, not including any perpetrator(s) killed by their own hand or otherwise. This excludes most of Australia’s more common firearm-related spousal and family violence killings.”

Since 2013, the United States has reduced the general baseline for mass shootings in Public Law 112-265 to “three or more killings in a single incident” following President Obama’s authorization of the act.\(^\text{91}\) It is important for this thesis to clarify the commonly understood definition of a mass shooting as it is a narrowly defined term that ignores domestic firearm violence and firearm-related suicide. In line with this interpretation of mass shootings, this thesis will only briefly cover the impact of mass shootings in domestic settings and will leave it up to future research.

Unlike the United States of America, the trajectory of gun legislation, violence, and culture in Australia is an entirely different story. Before the events of the Port Arthur Massacre on April 28, 1996, Australia’s history of mass shootings was one of intense violence and government inaction, which closely resembles the United States’ past and

\(^{90}\) Id.  
\(^{91}\) An Act to amend title 28, United States Code, to clarify the statutory authority for the longstanding practice of the Department of Justice of providing investigatory assistance on request of State and local authorities with respect to certain serious violent crimes, and for other purposes, Public Law 112-265, Investigative Assistance for Violent Crimes Act of 2012 (2013): 1.  
\(^{92}\) For all intents and purposes of this thesis, mass shootings after 2013 are understood as three fatalities, whereas data before 2013 is only considered for those with five or more fatalities.
present dilemma with gun violence. From 1980 up until, but not including, the Port Arthur Massacre, there were 13 mass shootings that took a combined 82 lives.\(^{93}\) Of these 13 mass shootings, nine involved men shooting people they knew previously with the remaining four consisting of gunmen in public places killing total strangers.\(^{94}\) Juxtaposed with the U.S., from 1982-1996 in the United States, there was a total of 21 mass shootings that afflicted the U.S. nation claiming a total of 173 lives.\(^{95}\) Of these shootings, two resulted in more than 20 civilian fatalities in one setting: The San Ysidro McDonald’s Massacre\(^{96}\) and The Luby’s Massacre.\(^{97}\) Despite the United States having a population nearly fifteen times that of Australia during this time period, on a per capita basis of mass homicides per 100,000 people, mass killings accounted for a larger share of total homicide-related deaths in Australia than in the United States.\(^{98}\) Instead of ignoring the underlying issues of firearm violence at hand in their society and thinking that law reform would be inevitable, Australians employed the “strategic use of media and other forms of advocacy to convert anger and outrage into action.”\(^{99}\)  


\(^{96}\) On July 18, 1984, James Oliver Huberty opened fire in a McDonald’s restaurant with a legally purchased semi-automatic handgun, assault rifle, and shotgun. He killed 22 people and injured 19 before Huberty was shot dead by a police officer. “US Mass Shootings, 1982-2019,” Mother Jones, Updated: December 11, 2019.  


\(^{99}\) Chapman, Over Our Dead Bodies, 9.
Gun control advocacy in Australia did not emerge out of the blue following the Port Arthur Massacre; it had been slowly growing for decades beforehand. Following the murders of Margaret Bacsa and Ella Rosvoll in the late 1960s in Victoria, the Committee to Register all Guns was set up by members of the public to combat what they viewed as a growing problem.\(^{100}\) In the years that followed, public advocacy of gun control in Australia persisted to gain steam with groups like the Council to Control Gun Misuse in Victoria attempting to lobby the state government in the early 1980s.\(^ {101}\) By the time of the Port Arthur Massacre, Coalitions for Gun Control had already been established in three of the Australian states: Tasmania, Victoria, and New South Wales.\(^ {102}\) Simon Chapman charts this progression of public opinion and depicts, “These years of advocacy, supplemented by efforts from a diverse range of health, legal, academic, church, trade union, women’s and community groups, had established widespread public support for the main platforms of gun control.”\(^ {103}\) As seen within the public opinion polls of Table 1 reproduced below, public support for gun control across Australia was exceptionally high both before and after the Port Arthur Massacre.

\(^{100}\) Id., 100
\(^{101}\) Id.
\(^{102}\) Id., 101
\(^{103}\) Id.
Table 1: Australian Surveys of Community Opinion About Gun Control

<table>
<thead>
<tr>
<th>Poll</th>
<th>Question asked</th>
<th>Results (percentages)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Saulwick Poll</td>
<td>‘Should semi-automatics be banned?’</td>
<td>Yes: Sydney 90, Melbourne 89</td>
</tr>
<tr>
<td>August 1991</td>
<td></td>
<td></td>
</tr>
<tr>
<td>AGB-I cNair, July 1995</td>
<td>‘Would you support or oppose gun laws that make it more difficult to buy guns in NSW? Is that strongly support/oppose or support/oppose?’</td>
<td>64 strongly support; 18 support</td>
</tr>
<tr>
<td>North Sydney Local Govt Elections, September 1995</td>
<td>‘Should there be tougher gun control legislation in NSW including gun registration?’</td>
<td>93.1 in favour</td>
</tr>
<tr>
<td>AGB McNair national phone poll 2,058, 3–5 May 1996</td>
<td>‘Do you support or oppose [a ban on all automatic and semi-automatic guns]?’</td>
<td>Support: National 90, NSW 91, Vic 90, Qld 86, SA/NT 89, WA 91, Tas 95, ACT 92. City: 91, Rural: 88</td>
</tr>
<tr>
<td></td>
<td>‘Do you support or oppose a register of all guns?’</td>
<td>National: 95, NSW 95, Vic 97, Qld 93, SA/NT 96, WA 96, Tas 92, ACT 97. City: 96, Rural: 93</td>
</tr>
<tr>
<td>Morgan national poll 526 voters, 1–2 June 1996</td>
<td>‘Do you agree or disagree with John Howard’s new gun control laws?’</td>
<td>Agree: 80; Disagree: 18</td>
</tr>
<tr>
<td>Morgan national poll 526 voters, 1–2 June 1996</td>
<td>‘Would you vote against a political candidate if advised by a gun group?’</td>
<td>Yes: 4; No/don't support: 96</td>
</tr>
</tbody>
</table>

Why then was there no substantial action undertaken on a national scale in Australia to counteract the publicly recognized issue of gun violence? As Australia’s gun policy remained stagnant, countries across the globe were implementing gun control measures. In November 1988, the United Kingdom implemented the Firearms

\[104\] Id., 101-102
(Amendment) Act 1988 banning some “specially dangerous weapons” immediately following the Hungerford massacre in August 1987. Similarly, the Canadian Government passed gun registration laws tightening control of firearms in 1995. Even the United States enacted some degree of national gun control before Australia as the 1994 Assault Weapons Ban was passed restricting the sale of newly manufactured or imported assault rifles.

The problem in passing national uniform firearm legislation in Australia was a result of the division of powers between the states and the territories, and the national government. As Alpers and Ghazarian note, “State and territory governments hold constitutional authority over the provision of law and order, while the Commonwealth has authority to ban the importation of firearms under its customs regulations.” The Australian Constitution spells out this separation of powers between state and territory governments and the national government. In Chapter V of the Australian Constitution, the power of state parliaments is reserved, and the legitimacy of a state’s laws is upheld as long as it is not “inconsistent with a law of the Commonwealth.” In the context of firearm legislation however, it was impossible for a state’s gun laws to be “inconsistent with the law of the Commonwealth,” for the Australian Parliament did not have this power vested in the Constitution. Under the section entitled “Powers of the Parliament” in the Australian Constitution, the Australian Parliament has powers ranging

---

106 On August 19, 1987, Michael Robert Ryan shot and killed 16 people using a handgun and two semi-automatic rifles before taking his own life.
108 Refer back to Ch. I: Section B. for 1994 Assault Weapon Ban.
110 AUS Const. Ch. V, §107.
from trade and commerce to astrological and meteorological observations, yet nowhere is it included that the Australian Parliament has the power to regulate firearms. Further, unlike the United States’ right to bear arms being embedded in the Second Amendment, Australian citizens did not have an equivalent right under the Commonwealth Constitution that preserved their right to bear arms. Resultantly, firearm legislation varied across the states and territories before Port Arthur. Depending on the state, ammunition sales were largely unrestricted, semi-automatic weapons were legal, and registration of most firearms was not required. Overall, despite the best efforts of some states in counteracting the issue of gun violence with regulation, it was the ineptitude of others that prevented any substantive national degree of regulation from being enacted.

Before the aftermath of Port Arthur in 1996, gun control laws intensely varied between Australian states. While states like Western Australia, New South Wales, South Australia, and Victoria took action to regulate firearms, states like Queensland and Tasmania took no action at all. In regulating firearms, Roger Douglas expresses the central regulative devices that states would employ:

“The major regulatory devices include provisions for licensing of shooters, requirements that firearms be registered and that transfers of ownership be notified to the Registrar, requirements that people acquiring particular firearms possess permits in relation to those firearms, rules restricting access to particular kinds of firearms, and rules with respect to the training of shooters and the safe-keeping of firearms. In general, regimes whose rules are restrictive in some respects are restrictive in others.”

112 AUS Const. Ch. I, Part V, §51.
114 Alpers and Ghazarian, “The ‘perfect storm’ of gun control,” 213.
For example, since 1931, Western Australia required licenses for each firearm; it proceeded to strengthen its legislation in 1974 and required that “licensees have good reason for being licensed.”\textsuperscript{116} On top of this, in 1981, Western Australia also restricted the access to semi-automatic weapons.\textsuperscript{117} In a similar manner, New South Wales introduced a shooter’s license requirement in 1975 before continuing to augment the 1975 “fit and proper requirement” with a “good reasons” requirement in 1986.\textsuperscript{118} New South Wales even prepared to set up a registration system in 1988, but it was inevitably repealed following the change in state government.\textsuperscript{119} These endeavors on the part of some states in enacting firearm regulation laws is worth mentioning here, for their efforts were not matched on a uniform basis across Australia. In Queensland and Tasmania, the law surrounding firearms remained almost completely unchanged with only some slight adjustments to the extent of people forbidden from owning a gun. Before the 1990s, neither Queensland nor Tasmania required a license to own a gun,\textsuperscript{120} making it incredibly easy for potentially dangerous individuals to buy guns and bring them across state lines where a more stringent state’s laws would have prevented them from completing the purchase.

It was not until December 22, 1987, when the Australian Commonwealth finally attempted to face the issue of gun violence head-on. Prime Minister Bob Hawke of the Australian Labor Party had been in power since 1983. During his time as prime minister, Australia was reeling from several high-profile mass shootings in the late 1980s and early

\textsuperscript{116} Id.  
\textsuperscript{117} Id., 52.  
\textsuperscript{118} Id., 51.  
\textsuperscript{119} Id.  
\textsuperscript{120} Id.
1990s. Most notably, the shock from the Hoddle Street killings\textsuperscript{121} in Melbourne of August 1987 and the Queen Street killings,\textsuperscript{122} also in Melbourne, of December 1987 finally managed to push the national government into attempted action.\textsuperscript{123} On December 22, 1987, Prime Minister Bob Hawke convened a National Gun Summit hoping to achieve a consensus on national gun laws or a possible national ban on military-style semi-automatic weapons.\textsuperscript{124} Nonetheless, the conference was a failure as no consensus was reached due to Queensland and Tasmania’s refusal to participate in a national agreement.\textsuperscript{125} Frustrated about this policy stalemate, the New South Wales Premier at the time, Barrie Unsworth, left the National Gun Summit in 1987 ironically claiming, “It will take a massacre in Tasmania before we get gun law reform in Australia.”\textsuperscript{126} Despite the growing salience of high-profile mass shootings in the late 1980s and early 1990s, it was this opposition from a minority of Australian states that prevented the majority from undertaking any national action towards regulating firearms.

The National Gun Summit did however spur a new wave of research about firearms and violence in Australia. Conducted by the Australian Institute of Criminology in February 1988, the first major study regarding the availability of firearms in Australia attempted to provide basic information and statistics about firearm availability before

\textsuperscript{121} On August 9, 1987, 19-year-old Julian Knight shot at passing cars from a nature strip on Hoddle Street killing 7 people and injuring 19 others before being caught.

\textsuperscript{122} On December 8, 1987, 22-year-old Frank Vitkovic visited a former friend in an office building before he proceeded to shoot and kill 8 people there with a sawn-off M1 carbine. He jumped to his death from the building after his gun was wrestled away by civilians present.

\textsuperscript{123} Alpers and Ghazarian, “The ‘perfect storm’ of gun control,” 214.

\textsuperscript{124} Chapman, Over Our Dead Bodies, 102.

\textsuperscript{125} Alpers and Ghazarian, “The ‘perfect storm’ of gun control,” 214.

considering policy options.\textsuperscript{127} For starters, the survey acknowledged the lack of “accurate, reliable, uniform and timely statistical data on the availability of firearms in Australia and their use in crime.”\textsuperscript{128} In an attempt to reconcile this lack of information about firearms, the study estimated that there was “at least 3.5 million guns of all types – registered, unregistered, licensed and unlicensed, in the hands of private citizens – in Australia;”\textsuperscript{129} similar to the United States’ present situation where research about firearms can only speculate the total number of firearms because of the lack of a national registration system, Australian firearm researchers also had a challenging time deciphering the total number of firearms in circulation due to the same issue. Furthermore, the study also discovered that more than a quarter of all Australian households were found to possess a gun with Queensland and Tasmania having the highest percentage of armed households.\textsuperscript{130} It’s unsurprising that Queensland and Tasmania had the highest rates of gun ownership as prospective gun buyers in these two states were not required at the time to go through any licensing or training procedure before purchasing a gun. Because of these nonexistent regulations in Queensland and Tasmania, the rationale was that stricter laws would effectively achieve some substantive decline in the states that had stricter legislation, yet in comparing the rates of gun violence between states, Roger Douglas found that more stringent measures may not correlate to less gun violence in a state.\textsuperscript{131}

\textsuperscript{128} Id.
\textsuperscript{129} Id.
\textsuperscript{130} Id.
\textsuperscript{131} Douglas, “Gun Laws and Sudden Death,” 52.
A separate study conducted by Roger Douglas in 1997 sought to scrutinize the role that stricter state legislation had in lowering firearm violence in said state. Juxtaposing the lax laws of Queensland and Tasmania against the tougher regulations of the other states, Douglas compared “the death rates and percentage gun use measures in the states in which the law has changed with rates in states in which the law stayed more or less constant, namely Queensland and Tasmania.”

On the whole, Douglas found that:

“The data provide some support for the proposition that stricter gun homicide laws affect gun homicide rates, less for the proposition that they affect the degree to which guns are used in homicides and none to suggest that stricter laws affect overall homicide rates. They provide slightly stronger support for the proposition that stricter laws reduce gun suicides and the use of guns in suicides (except in the Northern Territory), but none to suggest that they affect overall suicide rates. Stricter laws do not appear to affect gun accident death rates.”

Hence, in dividing the average annual death rates and gun death percentages of states by their Queensland equivalent, Table 2 illustrates Douglas’ conclusion that the proliferation and deregulated nature of firearms in Queensland did not entail more firearm violence in Queensland than most other states with more regulative schemes:

---

132 Id., 56.  
133 Id.  
134 Id., 55.
<table>
<thead>
<tr>
<th>State</th>
<th>Period and severity of regime</th>
<th>HOMICIDE</th>
<th>SUICIDE</th>
<th>GUN ACC. rate</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Gun rate</td>
<td>% with guns</td>
<td>Total rate</td>
</tr>
<tr>
<td>NSW</td>
<td>1688-75</td>
<td>1.14</td>
<td>1.24</td>
<td>.87</td>
</tr>
<tr>
<td></td>
<td>1976-86</td>
<td>1.18</td>
<td>1.26</td>
<td>.91</td>
</tr>
<tr>
<td></td>
<td>1987-90</td>
<td>1.18</td>
<td>1.23</td>
<td>.92</td>
</tr>
<tr>
<td>Vic</td>
<td>1968-72</td>
<td>1.16</td>
<td>1.32</td>
<td>.88</td>
</tr>
<tr>
<td></td>
<td>1973-83</td>
<td>.64</td>
<td>1.23</td>
<td>.81</td>
</tr>
<tr>
<td></td>
<td>1984-87</td>
<td>1.14</td>
<td>1.48</td>
<td>.74</td>
</tr>
<tr>
<td></td>
<td>1988-90</td>
<td>.76</td>
<td>1.41</td>
<td>.79</td>
</tr>
<tr>
<td>SA</td>
<td>1968-79</td>
<td>1.18</td>
<td>1.30</td>
<td>.91</td>
</tr>
<tr>
<td></td>
<td>1980-90</td>
<td>.77</td>
<td>1.11</td>
<td>.67</td>
</tr>
<tr>
<td>WA</td>
<td>1986-74</td>
<td>.61</td>
<td>.81</td>
<td>.70</td>
</tr>
<tr>
<td></td>
<td>1975-90</td>
<td>.44</td>
<td>.52</td>
<td>.82</td>
</tr>
<tr>
<td>NT</td>
<td>1968-80</td>
<td>3.22</td>
<td>.53</td>
<td>6.44</td>
</tr>
<tr>
<td></td>
<td>1981-90</td>
<td>6.69</td>
<td>.96</td>
<td>6.99</td>
</tr>
</tbody>
</table>

**Notes:**
1. Gun law regimes for each jurisdiction are coded 1 for most restrictive, 2 for next most restrictive, and so on. ? denotes doubts as to whether the relevant legal regimes differed in ‘strictness’.
2. Changes coming into operation on or after March 31 of a given year are treated as starting the following year.
With regard to Douglas’ final claims, while it is statistically true that less firearm regulations did not necessarily result in more gun violence in Queensland compared to the stricter states, Douglas’ argument ignores a critical factor of gun regulation emphasized by the Australian Institute of Criminology: uniformity of regulation. Even though it was mentioned earlier how New South Wales was one of few Australian states that took extensive measures to regulate firearms and firearm sales, homicides committed with a firearm in 1986 constituted a 44.2 per cent majority of all total murders reported to police in New South Wales.\textsuperscript{135} To comprehend why states with stricter gun laws still experienced high levels of gun violence, Chappell et al. explain that it is the lack of effective enforcement and uniformity in Australia’s national gun laws that causes the negligence of one state to neutralize the constructive efforts of others.\textsuperscript{136}

Before Port Arthur, the police forces of each state took drastically different ways of administering the firearms laws, so Chappell et al. portray, “Standard operating procedures for all Australian police forces would enhance the possibility of an effective enforcement system.\textsuperscript{137} Moreover, they acknowledge that the total disappearance of firearms from Australia would not eliminate violence; however, a reduction in firearm numbers and further restrictions on the availability of firearms on a uniform scale would reduce considerable death and injury.\textsuperscript{138} The issue of different firearm legislation from one state to the next is that, as was the case in 1987, a weapon purchased legally in Queensland was used to kill people in the Northern Territory and Western Australia where legislation in these victim states would have prevented the buyer from purchasing

\begin{footnotes}
\item 135 Chappell et al., “Firearms and violence in Australia,” 2.
\item 136 Id., 3-4.
\item 137 Id., 3.
\item 138 Id.
\end{footnotes}
said weapon.139 Altogether, the recognition of a need for universal firearms laws “poised [Australia] on the brink of change with regard to its firearms policies,” but it would not be until the atrocity of Port Arthur where this change would finally come to fruition.

Although no national measures were taken, following the National Gun Summit most states, including Tasmania and Queensland, did make some improvements to their gun laws. After suffering the Hoddle Street and Queen Street massacres, Victoria tightened restrictions on semi-automatic long-arms.140 As was previously mentioned, New South Wales tried to overhaul its gun laws between 1985 and 1988 by implementing a gun registration system but did so to no avail; the interesting aspect of New South Wales’ proposed registration system is that a very similar scheme would eventually be adopted nationally following the Port Arthur Massacre.141 Finally, Queensland in 1990 and Tasmania in 1991 passed similar laws that were the first of their kind in these states regulating rifles and shotguns and requiring a license to own or buy guns.142 The National Gun Summit of 1987 began the steadier push towards gun regulation. While Tasmania and Queensland had made progress at the state level, their new licensing requirements were still flawed as it did not require buyers to demonstrate a good reason for wanting a license and also allowed a license to be valid for life.143

In sum, in spite of Prime Minister Bob Hawke’s best attempts at corralling the states into a uniform set of firearm regulations, the discrepancies between states’ policies left holes in the national system

139 Id.
140 Chapman, Over Our Dead Bodies, 103.
141 Id.
142 Id.
that were only met with increased violence as the Australian Commonwealth could do nothing but plead for action from each and every state.

Consequently, the issue of firearm legislation haunted PM Hawke and overshadowed his government’s policy agenda. After 11 more people were killed in mass shootings in Sydney between August 1990 and August 1991, the media interest in the government’s response to this crisis was intense. Then, in August 1991, Hawke lamented on national television about the national government’s inability to take any action; Hawke affirmed:

“[U]nder the Constitution it requires the action and laws of the State governments and what I’m saying to you is that due to a lack of political will within the states the governments that have got the responsibility who must pass the laws won’t do it… I can’t change the Constitution. I have not got the constitutional power to pass laws.”

All in all, Hawke reminded the Australia public that gun control, was a power that could be exercised by the states not the Commonwealth Government. Despite demonstrating initiative to push for change, Hawke lost the support of the Australian Labor Party, and Paul Keating assumed the role of prime minister in December 1991. Like Hawke, PM Paul Keating could not ensure uniform gun laws even as political pressure intensified with more gun violence in Sydney of August 1993. Eventually, in March 1996, the federal election was held, and the Australian Labor Party lost 31 of its seats ending its 13 years in power. In place of Keating, John Howard of the Liberal Party won by a landslide claiming 94 seats. While neither major party promised uniform gun laws

---

144 Alpers and Ghazarian, “The ‘perfect storm’ of gun control,” 214.
145 Id.
146 Id., 214-215.
147 Id., 215.
148 Id.
149 Id.
150 Id., 216.
151 Id.
during this 1996 election, the impact of the Port Arthur Massacre one month after the federal election would demand action.

This section has gone to great lengths in detailing the confusing and jumbled nature of firearm legislation in each of Australia’s states and territories. In relating this pre-Port Arthur history and structure of gun laws to the current situation in the United States, it’s clear that the U.S. presently suffers from the same lack of universal firearm legislation across the country. Without proper, systematic regulation on the national level, it makes it easier for disqualified buyers to travel to a state with less regulations and acquire a gun with neither a background check nor training.152 Following the Port Arthur Massacre, Australia determined that it was about time to deal with these discrepancies in each state’s respective system by bringing them all together under one universal system.

B. Port Arthur Massacre and its Implications on Gun Legislation and Violence

Port Arthur, located in the Australian province of Tasmania, is the site of a historic landmark of Australian culture.153 From 1833 to 1877, it served as a prison for the most dangerous criminals that had broken the law again after already being shipped out of Britain for breaking the law there.154 Now, Port Arthur is maintained by the Australian Government and is a reminder of Australia’s roots as a penal colony.

On April 28, 1996, Martin Bryant, a 28-year-old with a history of violence and mental illness, travelled to the historic site of Port Arthur killing 35 people and severely

154 Id.
injuring 18 individuals in less than 24 hours.\textsuperscript{155} Though he used an AR-15, capable of shooting 30 rounds before reloading, and a FN FAL, a semi-automatic rifle able to fire up to 700 rounds a minute, to commit this destruction, Martin Bryant had legally purchased these weapons leading up to the shooting.\textsuperscript{156} After an overnight standoff with the Tasmanian police, Martin Bryant, in a fit, set the house he was camped in on fire the next morning around 8:00am.\textsuperscript{157} Running out of the house with his clothes on fire, Bryant was handcuffed and arrested by police before being sentenced at trial to 35 life sentences without the possibility of parole as Australia does not have laws supporting capital punishment.\textsuperscript{158} To this day, he is imprisoned in Risdon Prison in Tasmania and is under intense security monitoring to ensure he does commit suicide.\textsuperscript{159}

Immediately after the shooting, the event generated immense media attention with news outlets describing the massacre as “the worst massacre by a single gunman in the Australian history” and Martin Bryant as “the world’s worst lone mass killer.”\textsuperscript{160} As a result, the aftermath of Port Arthur was met with an unprecedented outpouring of national grief and anger. Particularly, Australians expressed frustration over the fact that Australia’s weak firearm regulations continued to grant individuals access to rapid-fire, military-style weapons like the ones Martin Bryant utilized.\textsuperscript{161} Only having been in office for 57 days, Prime Minister John Howard responded forcefully the day after the murders declaring his intention to introduce the “most sweeping gun control reforms ever

\textsuperscript{155} Chapman, \textit{Over Our Dead Bodies}, 15.
\textsuperscript{156} Rosewood, \textit{Martin Bryant}, 9,33.
\textsuperscript{157} Id., 57.
\textsuperscript{158} Id., 62-64.
\textsuperscript{159} Id., 70-72.
\textsuperscript{160} Chapman, \textit{Over Our Dead Bodies}, 15-16.
contemplated by the Australian government.” 162 Having witnessed the inability of the national government to create effective firearm legislation in the decades before becoming prime minister, Howard had always been critical of Australia’s gun laws. During his time as opposition leader in 1995, Howard made powerful claims about his desire to stop Australia from copying what he deemed as American gun culture; John Howard said:

“I am firmly on the side of those who believe that it would be a cardinal tragedy if Australia did not learn the bitter lessons of the United States regarding guns. I have no doubt that the horrific homicide level in the United States is directly related to the plentiful supply of guns ... Whilst making proper allowances for legitimate sporting and recreational activities and the proper needs of our rural community, every effort should be made to limit the carrying of guns in Australia.” 163

This rhetoric of avoiding a similar gun culture like that of the United States became a central element of all advocacy for new gun laws, for political leaders, media commentators, and even the general public demanded that Australia “must not to go down the American path” of gun violence and culture. 164 Although Australia’s police ministers had met 20 times since 1980 to talk through uniform national gun laws, their meetings always resulted in a lack of comprehensive national laws; 165 the potency of the Port Arthur killings pushed this standstill over the edge.

Prime Minister John Howard recognized that the Port Arthur Massacre provided an opportunity for action, and Howard later explained:

“You never let a good crisis go to waste ... you do have to recognize that sometimes a crisis forces people to focus on something ... tragic though the event was, it gave us an opportunity to do something in the wake of it, so that those lives were not lost in vain.” 166

162 Chapman, Over Our Dead Bodies, 16.
164 Chapman, Over Our Dead Bodies, 48.
165 Id., 60.
166 Alpers and Ghazarian, “The ‘perfect storm’ of gun control,” 218.
Therefore, in 12 days, the Howard Government meticulously persisted with its firearm reform policy until it reached an agreement with the states and territories to introduce national uniform gun laws. On May 10, 1996, at the Australasian Police Ministers’ Council (APMC), the National Firearms Agreement was agreed upon committing every state and territory to pass laws in line with the demands of the resolution. The National Firearms Agreement required:

1. A ban on the importation, ownership, sale, resale, transfer, possession, manufacture or use of:
   • all self-loading center-fire rifles, whether military-style or not
   • all self-loading and pump-action shotguns
   • all self-loading rim-fire rifles.
     o Exemptions for low-powered (rim-fire) self-loading .22s and pump-action shotguns would be available to primary producers (farmers) who could satisfy police that they had a ‘genuine need’ which could not be achieved by some other means, or by non-prohibited weapons. A further exemption was added later to permit some clay target shooters to own a semi-automatic shotgun. No other ‘sporting’ or competitive use of semi-automatic long-arms was to be allowed.

2. A compensatory ‘buyback’ scheme funded through an increase in the Medicare levy, whereby gun owners would be paid the market value of any prohibited guns they handed in. Owners of prohibited weapons would have 12 months to surrender their guns. After this amnesty, penalties for illegal ownership would be severe.

3. The registration of all firearms as part of an integrated shooter licensing scheme, maintained through the computerized National Exchange of Police Information (NEPI).

4. Shooter licensing based on a requirement to prove a ‘genuine reason’ for owning a firearm. Genuine reason could include occupational uses such as stock and vermin control on farms; demonstrated membership of an authorized target shooting club; or hunting when the applicant could provide permission from a rural landowner. The APMC agreement explicitly ruled out ‘personal protection’ or self-defense as a genuine reason to own a gun.

5. A licensing scheme based on five categories of firearms (A, B, C, D, H), minimum age of 18, and criteria for a ‘fit and proper person’. These criteria would include compulsory cancellation or refusal of licenses to people who have been convicted for violence or subject to a domestic violence restraining order within the past five years.

6. New license applicants would need to undertake an accredited training course in gun safety.

7. As well as a license to own firearms, a separate permit would be required for each purchase of a gun. Permit applications would be subject to a 28-day waiting period to allow the licensee’s genuine reason to be checked.

8. Each license applicant has to comply with safe storage requirements by keeping firearms and ammunition in separate fixed, locked receptacles, must submit to the inspection of storage by authorities and is subject to immediate withdrawal of the license and confiscation of firearms for failure to comply.

9. Firearm sales could be conducted only by or through licensed firearms dealers, thus ending private and mail order gun sales. Detailed records of all sales would have to be provided to police.

---

167 Id., 227.
10. The sale of ammunition would be allowed only for firearms for which the purchaser is licensed, and limits would be placed on the quantity of ammunition that may be purchased in a given period.

11. A firearm license may also be refused or cancelled following a conviction involving violence; an apprehended violence, domestic violence or restraining order; reliable evidence of mental or physical unsuitability to possess a firearm; and for not notifying a change of address.\textsuperscript{168,169}

Despite the achievement of reaching an agreement on national firearm regulations, the process of getting to this end result was not without opposition from the pro-gun lobby in Australia. Due to extensive media coverage painting the gun lobby in a harshly negative light, Australians were constantly met with stories of belligerent gun-crazed men that only wanted to cling to their military-style and rapid-fire weaponry. While this framing of the gun lobby ignored the sentimental tradition of hunting in the rural farm towns of Australia, it did illustrate gun ownership and hunting as an angry and potentially dangerous side of Australian life.\textsuperscript{170} Responding to these insults, the gun lobby, similar to the NRA’s strategy in the United States, repeatedly made clear that it was not responsible for the events of Port Arthur and that its members were “decent, law-abiding citizens who had and would not harm anyone.”\textsuperscript{171} Nonetheless, whereas these arguments have managed to put off legislative change to firearm laws in the United States, they carried no weight in Australia following Port Arthur, and the potency of the general public in criticizing and responding to claims from the gun lobby maintained the nation’s outrage over what happened and challenged any possibility of inadequate reform.\textsuperscript{172}

With the massive support of public opinion, PM John Howard did not have to worry much about the political strength of the gun lobby. Before the finalization of the National

\textsuperscript{168} National Firearms Agreement, Australasian Police Ministers’ Council Special Firearms Meeting (Canberra, May 10, 1996).
\textsuperscript{169} Chapman, \textit{Over Our Dead Bodies}, 16-18.
\textsuperscript{170} Id., 18.
\textsuperscript{171} Id., 19.
\textsuperscript{172} Id., 25.
Firearms Agreement, between 83 to 90 percent of the public supported a ban on automatic and semi-automatic weapons, and five weeks later on June 11 another poll found that 80 per cent of respondents approved of PM Howard’s decision to severely restrict the use of automatic and semi-automatic weapons.\(^{173}\) The most challenging issue for PM John Howard in enacting uniform national gun regulations was slicing through the partisanship of the different states. Just like the United States’ present system of varying firearm regulations depending on the state, Australia’s gun laws were inconsistent across each state before Port Arthur; this lack of consistency meant Australia’s system of gun control was “only as strong as its weakest link,” which in this case was Tasmania and Queensland.\(^{174}\) Luckily for Prime Minister Howard, he had the advantage of dealing with the disaster as a newly-elected Prime Minister with a massive majority in the new Parliament.\(^{175}\) Support of Howard’s proposal spread across party lines, for John Howard received immediate backing from the Opposition, which was the Australian Labor Party at the time, the Greens, and the Australian Democrats.\(^{176}\) The real dilemma for Howard was acquiring the loyalty of Australia’s National Party, the most socially and politically conservative party in Australia that had a long record of opposing gun law reform.\(^{177}\) In corralling the base of National voters to support reform, PM Howard turned to the National Party’s Federal leader, Deputy Prime Minister Tim Fischer, who wholesomely supported Howard’s position at the cost of losing his own

\(^{174}\) Chapman, Over Our Dead Bodies, 45.
\(^{176}\) Chapman, Over Our Dead Bodies, 50.
\(^{177}\) Id., 69.
support within the National Party.\textsuperscript{178} With this broad base of approval, gun control was a mainstream political priority.\textsuperscript{179}

The final remaining challenge to Howard’s inevitable passing of the National Firearms Act was the state and territory governments that had the ultimate say in firearm regulations. After the Police Ministers’ meeting on May 10, 1996, Queensland, South Australia, Western Australia, and the Northern Territory began prolonged debates and lobbying that tried to lessen and ease many of the resolutions, definitions, and provisions.\textsuperscript{180,181} To deal with these belligerent states and territories and to prevent the entire resolution from failing, Prime Minister John Howard threatened to hold a national referendum if all parties failed to introduce the agreed-upon laws by July 22.\textsuperscript{182} The referendum was going to seek to alter the Australian Constitution so that the power to make gun laws would originate from the Commonwealth Government, yet despite opinion polls indicating that majority support for the power transfer would be reached, the referendum would have also cost the government $50 million and run counter to PM Howard’s wish to reach uniformity through “cooperative federalism.”\textsuperscript{183,184} Before the deadline was reached, all states and territories had passed laws in line with the National Firearms Agreement effectively changing the gun culture in Australia forever.

Drawing this section back to the thesis’ central notion of culture, it’s evident that the prolonged process of achieving uniform national gun regulations in Australia did not

\textsuperscript{178} Id.
\textsuperscript{179} Id., 51.
\textsuperscript{180} Id., 56.
\textsuperscript{181} Particularly, these states and territory wanted to allow the ‘crimping’ of entire categories of firearms listed for banning. Id.
\textsuperscript{182} Id.
\textsuperscript{183} Id.
\textsuperscript{184} Howard, “Political Review: March 1996-September 1996,” 120.
come easily. It was a combination of John Howard’s timeliness, rhetoric, and broad support in the federal government that allowed him to swiftly push for change that would have been impossible before the events of Port Arthur. Alongside the passionate pleas of public opinion for stricter firearm regulations of automatic and semi-automatic weapons, John Howard was able to reshape Australia’s culture into one where guns were not viewed as a central aspect of what it means to be Australian. Resultantly, since this culture shift, Australian has seen a drastic reduction in the amount of violence committed with firearms.

C. The Current State of Gun Legislation and Violence in Australia

A central feature of the National Firearms Agreement was its decision to buyback a substantial portion of the stockpile of firearms. To ensure its effectiveness, an expert committee generated a price list that was used by all states to prevent citizens from choosing the highest paying state.185 Australia’s buyback program began in 1996 and was completed by September 30, 1997; during this period, citizens handed in a total of 643,726 prohibited firearms and received the market value for their weapon.186 The total public expenditures of the program were roughly $A320 million ($U.S. 230 million), which amounted to about $A500 ($U.S. 359) per gun.187 Comparing Australia’s buyback program with Clinton’s 1994 Assault Weapons Ban, President Bill Clinton only set aside $15 million for the Department of Housing and Urban Development to buy guns from public housing residents.188 Here, the issue for the United States was the underfunding of

---

186 Id.
187 Exchange rates were as of September 25, 1997. Id.
188 Id., 123.
gun buyback programs. Without proper funding, a buyback scheme in the United States would only capture an incredible meager percentage of the total number of firearms in circulation.\textsuperscript{189} Thus, Australia managed to finance their program with an additional 0.2 per cent levy on national health insurance.\textsuperscript{190} With the cost of the buyback program distributed equitably across society, it cost the average taxpayer $15.\textsuperscript{191}

Following the initial buyback, a series of “rolling amnesties” periods were laid out where gun owners could hand over guns that were either prohibited or not registered without facing any penalty.\textsuperscript{192} As represented in Table 3 below, this subsequent wave of amnesties brought the total number of firearms collected from the National Firearms Agreement to 659,940 by August 2001:

<table>
<thead>
<tr>
<th>Region</th>
<th>Number of firearms collected</th>
<th>Compensation paid to firearm owners (A$ thousands)</th>
<th>Population (100,000s, approximate)</th>
<th>Guns per 100,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Victoria</td>
<td>207,409</td>
<td>101,823</td>
<td>48</td>
<td>4,300</td>
</tr>
<tr>
<td>New South Wales</td>
<td>155,774</td>
<td>83,535</td>
<td>65</td>
<td>2,400</td>
</tr>
<tr>
<td>Australian Capital Territory</td>
<td>5,246</td>
<td>2,803</td>
<td>3</td>
<td>1,800</td>
</tr>
<tr>
<td>Tasmania</td>
<td>34,584</td>
<td>19,650</td>
<td>5</td>
<td>6,400</td>
</tr>
<tr>
<td>Northern Territory</td>
<td>9,474</td>
<td>5,039</td>
<td>2</td>
<td>4,700</td>
</tr>
<tr>
<td>Western Australia</td>
<td>51,499</td>
<td>18,758</td>
<td>19</td>
<td>2,700</td>
</tr>
<tr>
<td>South Australia</td>
<td>64,811</td>
<td>25,369</td>
<td>15</td>
<td>4,300</td>
</tr>
<tr>
<td>Queensland</td>
<td>130,893</td>
<td>67,614</td>
<td>36</td>
<td>3,600</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>659,940</strong></td>
<td><strong>359,600</strong></td>
<td><strong>193</strong></td>
<td><strong>3400</strong></td>
</tr>
</tbody>
</table>

\textsuperscript{189} Id., 124.  
\textsuperscript{190} Id., 130.  
\textsuperscript{191} Alpers and Ghazarian, “The ‘perfect storm’ of gun control,” 209.  
\textsuperscript{193} Id., 132.
In combating gun violence, however, Australia’s firearm regulations did not stop there. Identifying holes in its firearm regulations, in July 2002, the APMC agreed on the National Firearm Trafficking Policy Agreement. The Trafficking Agreement sought to increase border protection, introduce a nationally consistent regulation of the legal manufacture of firearms, and establish new offences for illegally possessing or supplying firearms as well as defacing a gun’s serial number. As a country with no shared land borders, this policy effectively took advantage of Australia’s isolation to regulate and control the flow of firearms in Australia. Later that same year on October 21, a shooting incident occurred at Monash University in Melbourne, where a man entered a classroom and shot and killed two people while wounding five. Since the National Firearms Agreement had only covered long-guns, the gunman was legally a licensed pistol owner with several handguns, including semi-automatic pistols and a .357 magnum revolver. The following day, Prime Minister John Howard once again responded to the tragedy and foreshadowed the raising of a new proposal to further strengthen gun laws in Australia. PM Howard’s stated objective in discussing the issue at the intergovernmental level was to see “whether there are additional things we can do to take more weapons out of society consistent with protecting the right of sporting shooters in a legitimate sense…”

---

195 Id.
198 Id.
199 Id.
By December 2002, the Australian state and territory governments and the national government had reached a consensus on the National Handgun Control Agreement. The NHCA prohibits handguns that have:

“[1] a caliber that is greater than .38, unless the handgun is used to participate in a specially accredited sporting event in that case a caliber of up to .45 will be permitted, [2] a barrel length of less than 120 mm for semi-automatic handguns and less than 100 mm for revolvers and single-shot handguns, unless the handgun is a highly specialized target pistol, and [3] a magazine/shot capacity that exceeds 10 rounds.”

Using the $15 million left over from the 1996 buyback along with an indicative cost of $69 million to the Commonwealth, the states and territories conducted a period of handgun buybacks from July 1, 2003, until December 31, 2003. When the buyback period had ended, the Australian Commonwealth had collected and destroyed 68,727 handguns, making the overall recorded total of firearms collected since the 1996 buyback 728,667. Realistically, Philip Alpers, who has dedicated his research to Australia’s gun policies, has found that this number is not only conservative but also ignorant of the firearms that were untallied and unrecognized. Alpers affirms that at least 219,721 additional firearms were given up for destruction as, “Such was the swing in public opinion that large numbers of gun owners sent lawfully held firearms to the smelter, even when there was no obligation to do so.” In the end, as a result of these buyback

---

202 Id.
204 Alpers and Ghazarian, “The ‘perfect storm’ of gun control,” 209.
206 Id.
periods, at least one million privately owned firearms, constituting a third of the
estimated national stockpile, were given up or seized before being melted down.

This thesis has gone to great lengths to display the magnitude of guns the
Australian Government managed to remove from its country’s total stock. In doing so,
the central question is whether or not Australia’s buyback programs and restrictive gun
laws produced any positive effect. Writing before the conclusion of the handgun buyback
programs, Peter Reuter and Jenny Mouzos were openly critical of the effectiveness of
Australia’s more restrictive laws and mass purchasing of civilian firearms. They held that
the total homicide rates had already been declining throughout the 1990s, and the
National Firearms Agreement did not accelerate this decline in any way. Their
statistics showed that there was a “decline of 8.9 percent in the rate of total homicide and
a 3.2 percent decline in the daily rate of firearm homicide,” but these declines simply
“continued a long-term trend.” Evidently however, Reuter and Mouzos did concede
that in the five years between Port Arthur and their study there had been zero firearm
mass murder incidents in Australia, and the average number of victims to firearm
violence was smaller than previous mass murders. With regard to homicides
committed with a firearm, the number declined between 1980 and 1995 before falling
sharply from 1996 to 1999. Nonetheless, Reuter and Mouzos conclude that “the results
[of the National Firearms Agreement] provide little insight [into the effectiveness of gun

207 As of 2016, the estimated total number of licit and illicit drugs owned by civilians in Australia is 3.15
210 Id.
211 Id., 135.
212 Id.
buyback proposals].” Comparing Australia’s buyback program with the U.S. 1994 Assault Weapons Ban, the authors state that, like the United States’ ban, the National Firearms Agreement targeted a certain type of gun that was only highly publicized because of its use in a few instances of mass murder.

Writing barely seven years after the Port Arthur Massacre, Reuter and Mouzos are incredibly skeptical of the impacts the NAF had in alleviating gun violence, yet they do concede that firearm homicides and mass murders have declined along with the overall rate of crime. In scrutinizing these claims that Australia’s stringent gun laws did not affect rates of firearm violence, Philip Alpers has conducted a more prolonged and extensive study of the effects of Australia’s firearm regulations. He found:

“In the 15 years preceding gun law reform, Australia saw 14 mass shootings in which a total of 117 people died. In the 20 years that followed, no mass public shootings occurred. In the same two decades after gun law reform, the rate of fatal shootings that claimed fewer than five victims—that is, the majority of gun deaths—also showed a downward trend.”

As reproduced below in Figure 3, Alpers shows that, while the rate of fatal shootings had been declining before the new firearm legislation in Australia, following the Port Arthur Massacre the risk of dying from firearm violence in Australia fell by more than half. Looking twenty years later at the statistics for 2016, it’s evident that the rate of all gun deaths in Australia “shows no sign of increasing and… remains 25 times lower than that of the United States.” Furthermore, after the buyback, firearm suicide rates dropped almost 80% while non-firearm death rates remained the same. All in all, the states

213 Id., 141.
214 Id.
215 Occurring after Alpers’ research, Australia has only suffered one mass shooting following Port Arthur. It happened on June 4, 2019, when a man shot and killed four people in Darwin.
217 Id., 210.
218 Id.
219 Alpers, “The Big Melt: How One Democracy Changed After Scrapping a Third of its Firearms.”
where more firearms were bought back saw the largest declines in firearm deaths.\(^{220}\) It’s necessary for this thesis to harp on the declining statistics of firearm violence in Australia, for the events of Port Arthur and the subsequent buyback programs spurred progressive political action about regulating firearms in Australia. While the United States has not shown any real initiative to follow this same path, the lessons of Australia’s buyback programs still boast powerful results in diminishing gun violence.

**Figure 3: Rate of all gun deaths in Australia, 1987-2016\(^ {221}\)**

In closing, the events of Port Arthur effectively changed Australia’s attitude towards firearms forever. Faced with national disaster as a newly elected Prime Minister, John Howard was capable of capitalizing on his incumbent status and unifying all

\(^{220}\) Id.

political parties in a timely and powerful manner. Port Arthur was “the last straw.”\textsuperscript{222} It was clear that Australia’s firearm laws had to change, and when they did, Australians became safer. Now, Australia’s gun reforms stand as a model for other nations. Since the 2019 Christchurch Mosque Shootings, New Zealand has pursued a similar model of gun control as Australia and conducted a buyback program.\textsuperscript{223} For future research, it will be interesting to examine the success and potency of New Zealand’s buyback compared to that of Australia.

\textsuperscript{222} Id., 208.
Chapter III: The Culture Question

Introduction

Now that this thesis has adequately laid out the respective histories of firearm legislation and violence in the United States and Australia, Chapter III moves to consider the culture question. In this sense, it teases out similarities and differences in both the United States’ and Australia’s cultures regarding firearms. Chapter III starts with an in-depth analysis of Australia’s structure of government and written constitution. To understand how Australia’s relationship with firearms was shaped from colonial times, this chapter draws attention to the Australian Constitution’s vast powers that are granted to the Queen of England as Australia’s Head of State. Comparing Australia’s relationship to Britain alongside that of the United States, Chapter III proceeds to examine Australia’s colonial history as a British penal society and its relationship to the British Empire. Here, this thesis highlights how Australia’s prolonged dependence on Great Britain did not create a culture dependent on self-defense. It concludes its look at Australian culture by describing the birth of Australian nationalism following WWII. Following this look into Australian culture, Chapter III then shifts to the United States’ culture. It acknowledges the differences in colonial history between the United States and Australia before scrutinizing the role of the NRA in shaping gun culture in America. In all, as both the U.S. and Australia were founded as British colonies, it is interesting how each nation’s culture varied with regard to firearms. While the American colonists had brought guns from Europe to defend themselves, the Australian colonists were prisoners that were not typically allowed to have weapons. This difference in colonization bled through the subsequent history of each nation and molded the culture that exists today.
A. Analysis of Australia’s Structure of Government

In briefly touching upon the differences between the two countries’ government structures, the United States operates as both a representative democracy and a republic, where U.S. citizens vote for representatives that they believe will best embody their ideas and desires in government.224 Australia, on the other hand, is both a representative democracy and a constitutional monarchy with Queen Elizabeth II as Australia’s Head of State.225 Despite Queen Elizabeth II’s role as head of state in Australia, this title is merely formal and symbolic.226 In reality, the head of government, the Prime Minister, in Australia has the administrative power to govern the country.227 The Governor-General, who is selected by the Prime Minister, has the powers of the Queen delegated to him or her by the Australian Constitution and serves to advise the Prime Minister.228 Altogether, even though the Queen has a role in Australia’s government and has powers delegated to her through the Australian Constitution, she has never made use of her power to disallow an Australian Act of Parliament, and her status as Queen of Australia is unrelated to the United Kingdom Government.229 In light of this thesis, it is important to spell out the nature that the Queen of England has in relation to Australia’s system of government, for the United States grew out of a more hostile relationship with the UK during colonial times. With regard to the question of culture, the formal, written structure of the

---

227 Id.
228 Id.
229 Id.
Australian Constitution acts as a starting point to analyze some possible cultural differences between the United States, Australia, and New Zealand that led to such differing cultures towards firearms.

Similar to the United States, Australia’s government is divided into three branches: a legislature, an executive, and a judiciary. Yet, compared to the United States’ fairly brief Constitution which set up an autonomous, independent American nation, the text of the Australian Constitution of July 9, 1990, does not separate an independent Australia from the Queen of England’s rule. In fact, constitutionally, the Queen retains certain powers in both the Australian Parliament and the Executive Government. According to the first section of Chapter I of the Australian Constitution, which lays out the duties of Parliament, “The legislative power of the Commonwealth shall be vested in a Federal Parliament, which shall consist of the Queen, a Senate, and a House of Representatives.”

On top of this, the next section further elaborates on the powers of the Queen in the Australian government by portraying:

“A Governor-General appointed by the Queen shall be Her Majesty’s representative in the Commonwealth, and shall have and may exercise in the Commonwealth during the Queen’s pleasure, but subject to this Constitution, such powers and functions of the Queen as Her Majesty may be pleased to assign to him.”

For the Executive branch, the Australian Constitution lays out in Chapter II section 61 that, “The executive power of the Commonwealth is vested in the Queen and is exercisable by the Governor-General,” for the execution and maintenance of both the Constitution and the laws of the Commonwealth. Among other things, constitutionally,
the Governor-General is given the power to appoint Ministers of State\textsuperscript{233} and command the naval and military forces of the Commonwealth\textsuperscript{234}.

While a textualist reading of the Australian Constitution would lead one to believe that the Queen of England held tremendous power over the Australian political system, reading the Australian Constitution literally is misleading. The Prime Minister and Cabinet possess the powers of the executive branch; their power is derived constitutionally from their membership in the Federal Executive Council, politically from the people electing the House of Representatives, and conventionally from the tradition of the Westminster system of government\textsuperscript{235}. In fleshing out the Australian system of government’s relationship to the central crux of this thesis, firearm culture, it’s necessary, as a starting point, to look to their written constitution in order to start teasing out the differences of culture and politics between the United States, Australia, and New Zealand that led to such divergent views on firearms. Particularly, Australia’s intimate relationship with and reliance on the United Kingdom from Australia’s founding as a penal society up through World War II had immense impacts on the development of Australian culture. Whereas the United States emerged from its revolutionary roots free from the shackles of British rule and passionate to violently defend their independence from the threat of tyranny\textsuperscript{236}, Australian nationalism is complicated and grew out of a dependence on the UK to provide protections and cultural hegemonic practices\textsuperscript{237}.

\textsuperscript{233} AUS Const. Ch. II §64.
\textsuperscript{234} AUS Const. Ch. II §68.
\textsuperscript{235} Parliament of Australia, “Infosheet 20 – The Australian system of government.”
\textsuperscript{236} Whitney, Living with Guns, 71.
B. History of Australia’s Colonization

Unlike the United States of America, where colonists left Britain to escape religious persecution, Australia was the creation of a British imperial decision.238 Following the Industrial Revolution in the 18th century, a generation of urban poor were left to fend for themselves without work or money in the overcrowded cities of Britain.239 These extreme conditions of poverty drove individuals to steal in order to survive.240 Thus, as crime rates soared during this time period, the number of people incarcerated exceeded the capacity of British prisons, so thousands of criminals were diverted to British hulk ships for imprisonment in the harbors.241 Soon enough, the hulks were also filled to their maximum capacity, and Britain decided to ship these prisoners off to distant lands.242 While serious crimes, such as murder or rape, were punishable by death, petty crime offenders were forcibly moved to some unknown corner of the globe.243,244 At first, the British sent their prisoners to the United States, but when the American Revolution came to a close in 1782, Britain had to look to another land mass to alleviate the overcrowding of correctional facilities: Australia.

Following Captain James Cook’s voyage to the east coast of New Holland in 1770, the British decided that an eight-month boat trip to Australia would be the perfect location to seclude these criminals, even though Australia had been already been

240 Id.
241 Id.
242 Id.
243 Id.
244 In this era, petty criminal sentences largely resulted from stealing anything worth more than one shilling, which was the average day’s wage. Id.
inhabited for 65,000+ years by the Indigenous people. On January 26, 1788, at the arrival of the First Fleet, Admiral Arthur Phillip founded the penal colony of New South Wales. The colonization party consisted of a 1,500 mix of military personnel, civilians, and convicts, and immediately upon founding the colony of New South Wales the convicts were given work according to their skills that was necessary to colonize the Australian continent. Early on, the conditions in the penal society was grim; food was scarce and farmers had trouble making the most of the harsh Australian conditions. Additionally, all newly-emancipated convicts in Australia suffered from the heavy social stigma for their prior petty crimes as British-oriented colonies emerged in Australia. The transportation of British convicts to Australian colonies continued from 1788 up until 1868; there were more than 160,000 convicts with 80% being male and 20% being female.

In sum, relating this history back to the nature of firearm legislation and culture, it’s important to provide this base of colonial history in order to better grasp the cultural differences between the United States, Australia, and New Zealand. While the United States violently rebelled and gained their independence from Britain, Australia remained closely tied to Britain throughout the colonization of the Australian continent. As a society of excommunicated convicts, colonial Australians did not enjoy the same degree of freedoms and rights that colonial Americans did. Therefore, these colonial Australians were shackled to the rule of British law for their petty offences and forced to colonize the

---

245 Id.
246 Id.
247 Id.
248 Id.
249 Id.
250 Id.
Australian continent without any means to defend themselves. In the colonial United States, colonists brought guns to hunt and to defend themselves from any threat.\textsuperscript{251} Colonial Americans viewed this right to own a gun as common law; while the right could be subject to restrictions, it could not be entirely withheld from the American people, and they enshrined the Second Amendment with this common law to protect Americans from the tyranny of federal government similar to that which they suffered under British rule.\textsuperscript{252}

Early Australian convicts, on the other hand, did not recognize a common law nature of firearms in their society. Similar to the violence and bloodshed that ensued between Native Americans and the American colonists, Australian colonists fought a long and brutal series of frontier wars against the Aboriginal peoples. Nevertheless, Australian convicts were not entitled to bring guns with them to the Australian continent to defend themselves; instead, these convicts were chained together and subjected to heinous conditions and punishments while at sea.\textsuperscript{253} As a result, during the frontier wars, these Australian convict settlers lacked organization and weapons.\textsuperscript{254} Although the settlers of the Port Phillip District pleaded for organization and training in 1838, Australian civilians were never given proper military organization and training to fight on the frontier.\textsuperscript{255}

Civilian gun ownership during this early period was not as common as it would later become, and colonial governors were increasingly hesitant to confer arms to

\begin{footnotes}
\item[251] Whitney, \textit{Living with Guns}, 38.
\item[252] Id., 45, 71.
\item[255] Id.
\end{footnotes}
the general populous. All in all, British-Australian officials during this colonial time period did not entrust guns in the hands of the common man, for violence on the Australian frontier was controlled by the professionally trained British soldiers. In relying upon the British army for protection, Australia’s colonial history splits drastically from that of the United States. As the American colonists clung to their guns to oppose British tyranny, the Australian convicts were incapable of possessing the training or firepower to defend themselves alone. This dependence on British protection infused aspects of British culture into the Australian people, so “Australianness was embedded in their Britishness; the two were not in conflict.”

C. What is Australian (firearm) nationalism?

As touched upon earlier in this chapter, the Australian Constitution was signed into effect on July 9, 1900, yet despite being its own sovereign entity, Australia chose to cling to and rely on Britain’s support and culture until the 1970s before pursuing a path of their own. Consequently, because of this jumbled nature of Australian dependence on Britain, it has been confusing for scholars to actually pinpoint a moment where Australia truly became its own nation with its individual sense of nationalism. Neville Meaney fashions a concise definition of Australian nationalism in claiming:

“In employing nationalism as an analytical term, what has to be examined is the idea that Australians... had of themselves as ‘a people’... The nature of the democratic idea which gives national character to a people, especially in a democratic political culture like Australia’s, is revealed most authoritatively in the rhetoric of leaders of representative institutions, in the content of history and literature curricula, in oaths of loyalty and public rituals and in the popular enthusiasm for symbols, anthems and ceremonial days.”

256 Id., 15.
257 Melleuish, “No longer tied to Britain.”
258 Meaney, “Britishness and Australian identity,” 76.
259 Id.
260 Id., 78-79.
Australia was the “Reluctant Nation;” while fully capable of prospering as a fully independent nation, Australia was unwilling “to cut ties with Britain, affirm their own separate identity and embrace… ‘a possible independent destiny.’” The historical pervasiveness of British culture and ideals throughout Australia illustrates how Australians’ conception of themselves as British people conditioned them to integrate copious amounts of British culture into their daily life that had a direct effect on the growth of their Australian culture.

To provide examples illustrating Australians’ conception that they themselves were culturally British not Australian, first, the oaths of loyalty in public schools throughout the early 1900s were British. Also, the history curriculum both in schools and in universities taught Australian history “as a footnote to the grand story of the British peoples’ great Empire which covered a sixth of the globe.” Moreover, Britain’s Empire Day, which Australia introduced a decade before Britain did, was celebrated as a sacred occasion, whereas Australia Day retained no national spirit and was only celebrated as a secular picnic. Therefore, in defining nationalism, Neville Meaney clarifies, “If ideas of nationalism are not expressions of the essence of a people’s being but historically conditioned imaginings… in the nationalist era Britishness was the dominant cultural myth in Australia, the dominant social idea giving meaning to ‘the people.’” From its colonization, Australia retained exceptionally close ties with the

---

261 Id., 78.
262 For example, “I love my country the British Empire, I salute her flag the Union Jack.” Id.
263 Id.
264 Teaching Australian history as a footnote to British history also served to intensify the divide between Aboriginal peoples and the white, European settlers as these issues of the frontier wars was effectively suppressed until very recently.
266 Id.
British Empire that began with the First Fleet in 1788 and continued throughout the 1950s. This overtly submissive and cordial relationship with the British led Australians to extensively rely on the British for trade and military protection as Australians were unwilling to decipher their own form of Australian nationalism.

It was not until the Fall of Singapore in February 1942 when Australia finally began to diminish its reliance on protection from Britain.267 In this sense, the threat and fear of communism spreading from Japan into Australia in World War II and the inability of the British to counter this threat serve as the catalysts which increased Australian reliance on a new global superpower: the United States.268 The resulting ANZUS Alliance of 1951 strengthened Australian borders and security, for “Australia's active support of US deterrence affords us [Australians] protection under Washington's extended nuclear umbrella, and provides us access to cutting-edge technology, advanced defense capabilities and exquisite intelligence products that we wouldn't otherwise get.”269 This access to the US’ military technology and protection is expressed through the presence of “joint facilities” on the Australian continent, most notably the Joint Defense Facility Pine Gap in Central Australia, the Harold E. Holt Naval Communication Station at North West Cape in Western Australia, and the Australian Defense Satellite Communications Station at Kojarena. As Richard Tanter describes, these joint facilities operate and are critical for:

---


268 Alan Patience, “To Be or Not to Be in Asia?” in Australian Foreign Policy in Asia: Middle Power or Awkward Partner? (London: Palgrave MacMillan, 2017) 98.

“...US nuclear-war targeting, US-Japanese missile defense, US drone and special forces extra-judicial counter-terrorism killings, the rapidly growing US capacity for space warfare, and direct support for ground and air operations in the wars in Afghanistan, Iraq, Syria, and for US combat operations in any outbreak of armed conflict on the Korean Peninsula.”

Yet, security and military benefits of the ANZUS Alliance aside, Australia’s interrelationship with British culture was not ousted for American ideals during this change in focus of Australian security. In fact, following the ‘Great Betrayal’ at Singapore, 65 per cent of Australians polled in a public opinion survey opted to be British when asked whether they wished to have British or Australian nationality. Hence, an individual’s sense of Australian Britishness was not the result of imperial cultural hegemony and colonial dependence on British protection. Instead, during the colonization of Australia, the first Australian settlers had a “fragile hold on a vast land set in an Asian sea,” so the colonists were increasingly “receptive to the atavistic idea of [British] community.” Relying on Britain for support, the Australian colonies were proud members of the British Empire making it easier for them to come to terms with their “racial and cultural heritage as the basis for their idea of nationalism.” As conceptions of Australianness advanced, these British qualities became intertwined with uniquely Australian characteristics of mateship and suspicion of authority.

Following World War II, Australia’s dream of the unity of the British peoples came to an end:

“It was events outside Australia's control, the transformation of the British Commonwealth and Britain's decision to find its future in Europe, which forced Australians finally to see that their British

272 Id., 84.
273 Id., 81.
274 Id., 82.
275 Id., 83.
276 For a more detailed narrative about these Australian values, See Russel Ward’s The Australian Legend.
dream was an illusion, to acknowledge that Britain was a 'foreign country' and to try to find their own place in the world.”

Connecting this lengthy narrative of Australia’s British sense of nationalism back to this thesis’ overarching focus on firearm culture, Britain’s role in influencing and shaping Australia’s idea of nationalism can be tied into Australian’s conception of firearms. In receiving beneficial protective services from the British Empire during the colonial period, Australians were historically more disengaged from the self-defense nature of firearms and a right to bear arms than the American colonists were. The Australian colonists had no desire of rebelling against the British Empire. Their only perceived threat was the Aboriginal population, but the Aborigines did not possess or use firearms on the frontier preferring to use traditional weaponry like spears. With the help of British firepower, violence against the Aboriginals was incredibly one-sided resulting in 66,680 Aboriginal casualties between the 1820s and early 1900s. Rather than celebrating and memorializing this history of self-defense like Americans have done for the American Revolution, Australians ignored their widespread massacre of Aboriginals in the frontier wars in what has been termed by anthropologist WEH Stanner as the “great Australian silence.” Hence, the Australian colonial history lacked the need to take up arms to defend oneself from the tyranny of the British government. Australian nationalism blossomed from its British roots; in expanding these ideals, Australians

277 Meaney, “Britishness and Australian identity,” 89.
278 Id., 82.
279 Connor, The Australian Frontier Wars, 1788-1838, 15.
281 This refers to the failure of Australian history books in substantively addressing the Australian Indigenous history. Id., 247.
continue to bring forth new civic ideas that enhance Australian nationalism and acknowledge the growing diversity of peoples.

Now, every January 26, Australians annually celebrate their growing sense of nationalism on Australia Day. While it began as a celebration of the emancipated, English convicts’ settlement of the Australian continent, Australia Day has recently evolved into a “celebration of Australia that reflects the nation’s diverse people.” This shift in Australian identity has come as Australia continues to work out its place both regionally and globally. Australia “knows it cannot be another US… It knows that the ties with Britain will only get weaker over time;” therefore, in figuring out where they belong, Australians have altered their British-centric focus of Australian culture to celebrate a more-encompassing view of what it means to be an Australian. In effect, this has meant moving Australia Day’s purpose away from the imperial creation of a British Australia and towards a celebration of the growing Australian culture. Most importantly, this change now includes the recognition and commemoration of the Aboriginal and Torres Strait Islander peoples’ culture, which has existed in Australia for more than 65,000 years but was subject to unrelenting violence and oppression from the British settlers. All and all, Australia’s culture, as a result of its immediate ties with British tradition and culture, has historically struggled to find and celebrate its own sense of nationalism. Nevertheless, in reassessing the role of Britishness in Australian history,

---

283 Melleuish, “No longer tied to Britain.”
284 Id.
286 For an in-depth history of the Australian frontier wars, See Henry Reynolds’ Forgotten War.
Australia has begun to adapt to a period of social change and bring new ideas like multi-
racialism and multiculturalism into everyday Australian life.\textsuperscript{287}

\textbf{D. America’s Colonial Legacy of Firearm Culture}

The histories of both the United States and Australia were each fraught with large-scale violence against the native populations. In the United States, this bloodshed stemmed from the initial colonization of the continental U.S., where the earliest American colonists brought guns to hunt for food and defend themselves from the Native Americans when they had to.\textsuperscript{288} While the assumption was that the English settlers could get along peacefully with the natives, the colonists’ hopes were quickly proven incorrect, and they had to rely on guns for self-defense.\textsuperscript{289} For example, in December 1620 when the \textit{Mayflower} arrived in present-day Provincetown, the initial settlers were met with violent retaliation from Native Americans; after the Englishmen found and dug up buried baskets of corn with no fear of repercussion for taking it, Native Americans attacked a group of the intruders a few days later with bows and arrows at “First Encounte\textit{r Beach.”}\textsuperscript{290} Because of their firearms, the English settlers were able to retaliate and scare off the attackers.\textsuperscript{291} On top of this, the glorified first Thanksgiving in Plymouth of 1621 was not as friendly and naïve as it has been taught in American schools. While the initial hostilities did subside with a peace treaty between the Wampanoag, English colonists, and the Massasoit, the English settlers were still armed at the feast for hunting and, if

\textsuperscript{287} Meaney, “Britishness and Australian identity,” 89-90.
\textsuperscript{288} Whitney, \textit{Living with Guns}, 38.
\textsuperscript{289} Id, 42.
\textsuperscript{290} Id, 43.
\textsuperscript{291} Id.
need be, self-defense. As a result of the violent tensions between Native Americans and English settlers, the early history of the United States conditioned these men that “having firearms was a matter of right – a right recognized in common law,” yet this common law right was still subject to restrictions from the earliest colonial times.

Thus, this culture of defending oneself with firearms against some existential threat was ingrained in the American mindset from the outset. Following the French and Indian War, Great Britain’s imposition of taxes and customs duties on the colonies to support the cost of a standing army led to the colonist’s apathy towards Britain. With Parliament’s levying of the Quartering Act and the Stamp Act, the colonists, who “still had the right and the duty to bear those firearms they had,” decided to defend themselves from the increased oppression they were being subjected to by those in power far away in Great Britain. Without going into excruciating detail about the Revolutionary War, its impact and implications on the culture of firearms in the United States is astounding and is where this thesis finds a critical breaking point between the histories of the United States and Australia. Early Americans relied substantially on their weapons for self-defense against first the Native Americans and then the British Empire. Albeit the colonial militia retained little discipline and training in tactics and structure of a well-regulated militia during the Revolutionary War, the Americans were still successful in securing their freedom with the use of firearms, which created a legacy that shaped the country the United States would become.

292 Id, 43-44.
293 Id, 45.
294 For example, “Colonial regulations in Massachusetts, as elsewhere, required all free adult (white Protestant) males in the community to own and be capable of using firearms for militia service.” Id, 46.
295 Id, 57.
296 Id.
297 Id, 66,69.
E. The Unstoppable NRA

It would be impossible for this thesis to mention gun culture in the United States without expanding on the massive impact that the National Rifle Association has had in influencing Americans. Following the Civil War, two Union veterans, William Conant Church and George Wood Wingate, formed the NRA because they believed, “An association should be organized… to promote and encourage rifle shooting on a scientific basis.” On November 17, 1871, the National Rifle Association was granted a charter in New York “to promote rifle practice… and to promote the introduction of a system of aimed drill and target firing among… the militia of other states.” Presently, the NRA stands as an $88 million-dollar-a-year corporate non-profit with about 2.6 million members, 400 employees and assets of $128 million. Shifting its focus from promoting recreational marksmanship, hunting, and safety training to stopping any attempts at gun control, the NRA hardened its absolutist views in 1977 when Harlon Bronson Carter seized leadership of the NRA in the Cincinnati Revolt. Since then, the NRA now represents the largest impediment to possible attempts at gun control in the U.S. In fueling its agenda with fear and intimidation, the NRA is unyielding in its stance against gun controls. Since its founding, the NRA has clung to the ideal of the American rifleman tradition rooted in the Revolutionary War. This image of the “citizen-soldier”

298 Sugarmann, National Rifle Association: Money-Firepower-Fear, 25.
299 Id., 26.
300 Id., 13.
301 At the annual NRA meeting in Cincinnati, Ohio, in 1977, the vocal minority of Second Amendment fundamentalist in the NRA, led by Carter, reshaped the NRA’s idea of gun ownership from a recreational issue into a political one. Id., 47-49.
302 Id., 17.
303 Id., 17-19.
304 Id., 13.
symbolizes the NRA’s ideals and appeals to a wide range of the American populace as the NRA prides itself on defending these gun owners’ rights and freedoms.\(^{305}\)

How then has the NRA successfully managed to draw this potent firearm culture out of American citizens? Put simply, fear and intimidation are the NRA’s most effective tools:

“In newspapers and magazine ads, Americans are warned of the need for an armed civilian population as a check against the tyranny of a strong federal government. Other ads paint a world in which unarmed victims are easy prey for criminals and the police are never there when you need them. The only reliable form of self-defense, readers are assured, comes from the barrel of a gun.”\(^{306}\)

Further, the NRA proceeds to also translate this ideology into political action on Capitol Hill. As Josh Sugarmann conveys, “Its political approach is not sophisticated: reward your friends and punish your enemies.”\(^{307}\) While this strategy only fuels political partisanship, it works for the NRA. By utilizing its lobbying arm, the Institute for Legislative Action (ILA), the NRA delegates a substantial portion of its budget to the ILA in order to battle federal and state gun control measures and motivate the membership.\(^{308}\) This anti-gun-control message permeates through all of the NRA’s programs, including publications, fundraising, public affairs, and member services.\(^{309}\)

The degree to which the NRA makes its message heard on issues of gun control happens on a mass scale. Whenever any measure of gun control is proposed in local, state, or federal laws, NRA mailings are sent to all of its members showcasing said gun control measure as “a personal attack threatening the very life of each NRA member and his

\(^{305}\) Id., 13-15.  
\(^{306}\) Id., 19.  
\(^{307}\) Id.  
\(^{308}\) Id.  
\(^{309}\) Id.
family.”\textsuperscript{310} Since its origins as a firearms training and sportsmanship association, the NRA has radicalized its ideology. In doing so, the NRA has capitalized on its members’ fears of disarmament and violence and created a formidable base of Second Amendment fundamentalist voters that view gun control as the only issue by which to judge a candidate for office.\textsuperscript{311}

The NRA has taken the United States’ colonial understanding of the right to bear arms and made it into a “literal war” that will not end until the last inkling of proposed gun control is defeated.\textsuperscript{312} Because the NRA reshaped firearm culture and infused it with fear and intimidation, the National Rifle Association is constantly successful in battling gun control. As a result, the “political ineptitude of gun control organizations, the apathy of their supporters, politicians’ fear of NRA retaliation and many Americans’ misplaced faith in firearms as effective self-defense tools” have given the NRA inordinate power to frame the parameters of the gun debate however they desire.\textsuperscript{313} In the end, the NRA’s capacity to frame gun debates means “that firearms… are rarely seen for what they are: inherently dangerous consumer products.”\textsuperscript{314} For rates of firearm violence in the U.S. and notions of gun culture, this attitude is toxic; the NRA’s emphasis on fear and intimidation ignores the recurring problem of mass shootings and fails to deal with polarization by instead attacking the opposition and refusing to respectfully dialogue.\textsuperscript{315} To reach some sense of common ground, the United States’ political leaders must stop listening to lobbyists who pander to fears.\textsuperscript{316} Whether these fears spawn from Second Amendment

\textsuperscript{310} Id.
\textsuperscript{311} Id., 165.
\textsuperscript{312} Id., 252.
\textsuperscript{313} Id., 251-252.
\textsuperscript{314} Id., 90.
\textsuperscript{315} Whitney, \textit{Living with Guns}, 211.
\textsuperscript{316} Id., xi-xii.
fundamentalists or hardliner gun control advocates does not matter, what matters for the preservation of both life and liberty of Americans is achieving realistic solutions to the issues of gun violence at hand.
Chapter IV: Where does one go from here?

In tracing the histories of firearm legislation, violence, and culture in Australia and the United States, this thesis has rooted out some explanations for differences between the American and Australian gun cultures. At the crux of this difference is the Second Amendment. During an interview with Craig Whitney,\(^{317}\) Whitney commented on the reason why Australia could enact such sweeping gun reform, and he stated, “I oversimplified it, but they [Australians] do not have a Second Amendment or the history that led up to it. We do.”\(^{318}\) On the whole, it is this variance between U.S. and Australian history that spurred the subsequent growth of two very distinct gun cultures. While many younger Americans living in big cities or affluent suburbs are reliant on the law and police powers to keep them safe, these individuals are far removed from the colonists who had to depend on firearms to protect against attack.\(^{319}\) Meanwhile, American gun owners, especially in rural areas, continue to view themselves as “take-care-of-yourself people.”\(^{320}\) They follow the tradition of American colonists who escaped persecution in Britain and brought firearms to the U.S. to hunt and to defend themselves in order to survive on the frontier.\(^{321}\) Hence, the ability to own and use firearms was a common law right in American colonial society.\(^{322}\) After the American Revolution, this common law right was codified in the Second Amendment “to protect Americans from tyranny that

\(^{317}\) Whitney was a reporter, foreign correspondent, and editor at The New York Times. He was assistant managing editor in charge of standards and ethics before retiring in 2009, and he wrote *Living With Guns: A Liberal’s Case for the Second Amendment* in 2012, which has been referenced thoroughly throughout this thesis. https://craigrwhitney.com.

\(^{318}\) Personal interview with Craig Whitney, February 6, 2020.


\(^{320}\) Id., 24.

\(^{321}\) Id., 43-44.

\(^{322}\) Id., 45.
could be imposed by a strong federal government.”

Although the nature of firearms has significantly evolved from colonial times, the message for most American gun owners remains the same: “…the right of the people to keep and bear arms, shall not be infringed.”

Despite also being colonized by Great Britain, colonial Australians did not form this connection with firearms from the outset. Instead, the involuntary migration of British convicts on “dangerously overcrowded and filthy decommissioned hulks” meant that, unlike early American settlers, colonial Australian convicts did not travel to the Australian continent with the right to bear arms; in fact, these Australian convicts did not enjoy many rights at all because they were processed at a colonial penal institution and given labor assignments upon arrival. Whilst early Americans had to protect themselves from both Native Americans and other European powers in the continental U.S., Australia was only colonized by the British, and its sole threat to security was from the Aboriginal groups armed with spears. Learning from its failure in the Revolutionary War, Great Britain made obsolete the necessity of civilians owning a firearm to protect oneself from violence in Australia by having line regiments serve in Australia as a part of a cycle. The British Empire’s constant protection of Australia meant that civilian gun ownership on the early frontier was uncommon. Additionally,

---

323 Id., 71.
324 U.S. Const. Amend. II.
326 Id.
329 Id., 12.
330 Id., 17.
requests from civilians to “organize into militia units to fight on the frontier,” as was the case with the Port Phillip District settlers in 1838, were ignored and unnecessary for Australian security.\textsuperscript{331} Australia’s roots as a penal society and its reliance on the British Empire up through World War II conditioned Australians to explicitly interpret and present their convict history as the “national history.”\textsuperscript{332} This common understanding of Australia’s culture has bled through the Australian Constitution. Having not rebelled against Britain like the United States, Australians did not need to resort to violence to secure their freedom and accepted “their [Britain’s] racial and cultural heritage as the basis for their idea of nationalism.”\textsuperscript{333}

With these stark differences between the foundations of U.S. and Australian cultures having been laid out, this thesis on the politics and culture of firearm regulation and violence in the U.S. and Australia concludes by raising possible solutions to the United States’ problem of gun violence. In light of Australia’s successful buyback programs and firearm regulations, would the United States be able to draw inspiration from the Australian model and implement something similar? Philip Alpers expressed, “Australia followed standard public health procedures to reduce the risk of multiple shooting events, and we can see the evidence. It worked.”\textsuperscript{334} Even Barack Obama during his second term of presidency in 2016 acknowledged the success of Australia’s endeavors in claiming, “When Australia had a mass killing… it was just so shocking the entire country said, ‘Well, we’re going to completely change our gun laws,’ and they did. And

\begin{footnotesize}
\begin{enumerate}
\item Id., 16.
\item Casella, “Prisoner of His Majesty, 454.
\item Meaney, “Britishness and Australian identity,” 82.
\end{enumerate}
\end{footnotesize}
it hasn’t happened since.”  

Despite the significant reduction in gun ownership and mass shootings in Australia, gun violence has not completely disappeared from the Australian continent. However, compared to the United States, Australia’s rate of all gun deaths per 100,000 people is 0.88 to the United States’ equivalent of 12.21.

The Australian system of firearm regulations worked. If the United States was to follow suit and simply copy Australia’s initiatives, the results would not only be nowhere as effective but also would probably not work. Alpers describes why a massive reduction in the national stockpile of weapons, like that of Australia, could not be enacted in the U.S., and he claims, “Because no two jurisdictions share the same problems or legislative or social settings – let alone attitudes – none can claim to have discovered the magic bullet.” For Australia, the lack of a Second Amendment equivalent made it easy for John Howard to push forward with the National Firearms Agreement without infringing on the rights of Australian citizens. Also, as a freshly-elected Prime Minister with a massive majority in Parliament, John Howard had relatively little opposition to his policies, whereas the current division between a Democratic House of Representatives and a Republican Senate in the U.S. stalls bipartisan action. Lastly, Howard’s speed of government action following Port Arthur was swift and promising; in just 12 days, Howard had corralled all six states and two territories to agree to and pass uniform gun

---

338 Beck, “Are Australia’s gun laws the solution for the US?”
339 Alpers, “The Big Melt: How One Democracy Changed After Scrapping a Third of its Firearms.”
340 Beck, “Are Australia’s gun laws the solution for the US?”
control legislation.\textsuperscript{342} For the U.S., Katie Beck rightfully expresses, “It is hard to fathom the U.S. government ever being able to get all 50 states to agree to something, let alone act that quickly.”\textsuperscript{343} In total, whereas a national buyback of certain firearms helped fix Australia’s issue of gun violence, the Australian model cannot be used as a band-aid solution to the U.S.’s prolonged problem of mass shootings. Instead, the United States should recognize the success and merit of Australia’s actions while determining the best course of action towards gun control in the U.S.

The other extreme would be to largely continue how the United States Congress has been pursuing gun control regulations: by doing relatively nothing. With the NRA providing “big-dollar campaign spending and purported legions of voters in orange caps” to politicians that ally with the ideals of the NRA, the political power of the NRA is capable of injecting the volatile issue of gun control into a campaign making gun control “quickly dominate the campaign and derail any politician’s packed message.”\textsuperscript{344} By preventing any substantive action towards firearm regulations, the NRA’s efforts allow for the never-ending expansion of the domestic firearms market.\textsuperscript{345} Along with the NRA, the recent Supreme Court decisions in \textit{D.C. v Heller} (2008) and \textit{McDonald v Chicago} (2010) have forced some efforts at gun regulation to take a few steps back. While these decisions do uphold the sanctity of the Second Amendment, they are a colossal impediment to a state’s ability to decide how to effectively regulate firearms. On top of this, enshrining the Second Amendment with this much protection allows the NRA and gun owners to attack any measure of gun control as a “fight against you, your guns, and

\textsuperscript{342} Beck, “Are Australia’s gun laws the solution for the US?”
\textsuperscript{343} Id.
\textsuperscript{344} Sugarmann, \textit{National Rifle Association: Money-Firepower-Fear}, 165.
\textsuperscript{345} Id., 88.
your freedom.” Ignoring the issues at hand or enacting flimsy legislation to counteract the problem of gun violence does not fully resolve the crisis; U.S. politicians have to both respect gun owners’ Second Amendment rights while reaffirming that this right can and will be regulated to protect the life and liberty of all citizens.

Rather than demanding either full restrictions on guns or no regulations at all, this thesis shows that a middle ground must be taken on the issue to bring together members of both the NRA and the gun control coalition in a constructive and respectful conversation. For what measures should inevitably be taken, this thesis mirrors many of the proposals laid out by Craig Whitney. First, the database of the National Instant Criminal Background Check System (NICS) must be augmented to include people who are drug abusers, mentally ill, or otherwise disqualified to purchase a gun under federal law. Whitney discussed that at the federal level background checks need to be universal and cover private and registered sales; likewise, at the state level, “red flag laws” need to be put in place to prevent the sale or possession of guns to mentally ill individuals.

Conducting a four-year study from 2007 through 2010 on the effect that more firearm laws have in reducing the number of firearm fatalities, Eric Fleegler et al. found that “a higher number of firearm laws in a state are associated with a lower rate of firearm fatalities in the state, overall and for suicides and homicides individually.”

---

347 Whitney, Living with Guns, 216.
348 Personal interview with Craig Whitney, February 6, 2020.
349 Here, the problem is that state budgets for treating mental illness are under strain, so they do not have effective ways of treating mental illness. Whitney, Living with Guns, 217.
firearm legislation into five categories of (1) curbing firearm trafficking, (2) strengthening background checks on purchasers of firearms beyond those required by the Brady Handgun Violence Prevention Act, (3) ensuring child safety, (4) banning military style assault weapons, and (5) restricting guns in public places, Fleegler et al.’s results found that between 2007 and 2010, there were 121,084 firearm fatalities of which 73,702 were firearm suicides and 47,382 were firearm homicides. Here, the magnitude of firearm suicides is startling as it an issue that constantly is overshadowed by the prominence of mass shootings in the media to provoke public opinion. The threat that firearms pose not only to the victims of mass shootings but also to the firearm owners themselves that may be suffering from mental health issues and resort to committing suicide with the quick pull of a trigger. While this thesis has largely looked towards culture and policy, it would be interesting for a future study to look at the correlation between mental health and firearm use/abuse.

This leads to the next necessary measure: increasing the penalties for committing a crime with guns. Making the repercussions more intense for gun violence will scare offenders and is a regulation that the NRA has also had no problem in endorsing.

Next, a federal firearms trafficking statute needs to be implemented to crack down on straw purchasers and firearm dealers that knowingly sell to disqualified buyers. While it is incredibly tough and most likely impossible for the U.S. to reach uniform national gun regulation like Australia did, the transfer of firearms across state lines has to be tightly regulated to prevent firearms that are illegal in one state from being smuggled

---

351 Id 733-5.
352 Id., 222.
353 Id.
354 Id., 224.
in from a state where said guns are totally legal. A further regulation that will help to prevent the illegal transfer and use of arms is the “fingerprinting” of bullets and shell casings in order to trace guns used in crimes.\textsuperscript{355} With each bullet and shell labelled with the serial number of the gun, not only will lawful gun owners not have to worry about being accused for a gun crime they did not commit, but the gun in question will also be more easily identified. Lastly, the final measure of gun control this thesis will put forward is the encouragement of all 50 states “to pass legislation requiring state or local licenses to own a gun, mandate training in the use and storage of firearms, and institute state registration.”\textsuperscript{356} Just like drivers need to take a test to demonstrate competency in order to acquire a driver’s license, gun owners should have to exhibit competency of both firearm use and safety on a firing range.\textsuperscript{357} All in all, these are just some of the possible routes to be taken towards a safer gun culture in the U.S. While the implementation of just a few of these measures would serve to better gun safety in the U.S., this thesis holds that policies should be created to enact all of these measures in unison. Without proper safeguards against holes in the system of firearm sales, regulations, and use, the issue of gun violence will only be perpetuated in the U.S. After suffering 117 mass shootings since 1982, it is about time the United States steps up and wholesomely addresses the issue at hand.

At the end of the day, to bring forth effective, visible changes to the United States’ issue of gun violence, the American people need to break through the hyperinflation of political polarization and talk rationally with individuals of all political

\textsuperscript{355} Id., 236.
\textsuperscript{356} Id., 228.
\textsuperscript{357} Id., 229.
backgrounds to alleviate partisanship. This is not easy. Craig Whitney described this conflict as a “dark moment in our political history.” The American political culture is being infused with directing all one’s emotion, hate, and intolerance towards any view that does not align with one’s own opinion; this inability to converse as equals simply stalls the creation of beneficial policies and allows the underlying issues to fester. With regard to firearms, although there will always be sides in the debate engaging in “vigorous political struggle,” Professor Sanford Levinson emphasizes the importance of making the political sides appear “more human” to one another:

“Perhaps "we" might be led to stop referring casually to "gun nuts" just as, maybe, members of the NRA could be brought to understand the real fear that the currently almost uncontrolled system of gun ownership sparks in the minds of many whom they casually dismiss as "bleeding-heart liberals." Is not, after all, the possibility of serious, engaged discussion about political issues at the heart of what is most attractive in both liberal and republican versions of politics?”

In order to achieve this form of respectful, critical discussion about proper firearm regulations, constructive participation from the NRA is necessary. Rather than using scare tactics to label any measure of gun control as a “total confiscation of our [NRA members] firearms and the end of the Second Amendment,” the NRA must revert back to its founding values of educating and training marksmanship skills. Overall, the success of gun control regulations in the U.S. is contingent upon a “positive recognition by all Americans… that the right to keep and bear arms is an individual right.” While the right is not absolute and comes with certain responsibilities, this does not mean law-

---

358 Personal interview with Craig Whitney, February 6, 2020.  
360 Whitney, *Living with Guns*, 211.  
362 Id., 211.  
363 Id., 212.
abiding individuals should be treated as if they were criminals just because they own a
gun.\textsuperscript{364} Every American, gun owners and non-gun owners alike, has to come together and
recognize one’s civic duty to do whatever it takes to make the free use of firearms safer
than what it is presently. For Australia, the remedy was straightforward as they had no
culturally or constitutionally ingrained sense of a right to bear arms. The United States,
on the other hand, must balance its constitutional and cultural rights to rectify the extent
of firearm violence in the U.S. without completely impeding on the gun rights of its
citizens like Australia has done.

\textsuperscript{364} Id.


Patience, Alan. “To Be or Not to Be in Asia?” In *Australian Foreign Policy in Asia: Middle Power or Awkward Partner?* London: Palgrave MacMillan, 2017.


