

## Off-Target: Gun Control in Canada

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In 1995, the Canadian government introduced universal firearm registration. The plan is to license all gun owners by January 1, 2001, and then register all firearms by January 1, 2003. It was claimed that firearm registration would cost no more than \$55 million (US) over five years. Freedom of Information requests have uncovered that firearm registration has cost at least \$400 million (US) over the past three years. Firearm registration has been criticized for its abuse of individual privacy and property rights. Few believe that forcing hunters and target shooters to register their firearms will actually reduce criminal violence.

The demonization of ordinary people who happen to own a gun lays the foundation for a massive increase in governmental intrusiveness in the lives of ordinary citizens. Firearm registration violates the basic principles of policing set forth by Sir Robert Peel, the father of the English "Bobbies." Passive resistance to firearm registration is expected to be widespread as it has been in other countries. The history of gun control in both Canada demonstrates the "slippery slope" toward eroding personal liberties, a process that begins with even the most benign-- appearing gun control measures.

In the United States, universal firearms registration is demanded by groups such as Handgun Control, Inc., and the Million Mom March Foundation. These organizations' spokespeople say that registration will improve public safety. Firearm registration is supposed to encourage greater responsibility among owners and also provide police with greater methods of tracing lost or stolen firearms. Opponents argue that such a scheme is unworkable and just creates another costly federal bureaucracy. The recent introduction of a licensing scheme for Canadian gun owners has already provided a taste of the costs and pitfalls that will accompany full registration of firearms. The government has proceeded in two steps. First, by mandating that existing gun owners must have applied and received a license by 1 January 2001, and second by requiring that by January 2003, the firearms themselves must be registered.

In 1995, Jean Chretien's Liberal government pushed through the Firearms Act (Bill C-68). This act, among other things, mandated the licensing of all firearm owners and introduced universal firearm registration. This legislation is even more remarkable because Canada already had a firearm regime that was quite strict. Handguns had been registered since 1934, police scrutiny had been required for all firearm purchasers since 1977, a wide range of weapons were prohibited in 1977, and in 1991, a large number of military-style semi-automatic rifles and large-capacity magazines were also prohibited or restricted.

Universal firearm registration and owner licensing sounds reasonable to many people. Unfortunately, a number of practical problems have emerged in the past few years since the federal government has begun to implement it. First, costs are escalating, second, firearm registration violates basic principles of policing, and third, public support appears to be evaporating for registering firearms. This is not just a problem in fiscal mismanagement; firearm registration is another step along a slippery slope that could damage individual freedom for all Canadians. This article will examine the disturbing increase in police power that existing gun legislation has already created.

### I. THE PROGRAM'S COSTS HAVE ESCALATED, SEEMINGLY OUT OF CONTROL.

When firearm registration was introduced, it was claimed by the federal government that it would cost \$55 million (US) over 5 years to introduce (Department of Justice, 1995). At the time this was announced, these estimates were subject to strong doubt, as registration involves the cooperation of several federal

ministries (e.g., Customs, Secretary General – the RCMP, Justice, and Indian Affairs), all 10 provincial governments, as well as all three territorial governments.

The Canadian Firearm Centre (CFC) was set up in 1996 to administer firearm registration. Although firearm owners will have until January 1, 2003 to register their firearms, the cost of the CFC passed \$400 million (US) in early 2000, and the total is expected to reach one billion within another year. While Bill C-68 was before Parliament, I estimated that the final cost would be pass \$1 billion (US) (Mauser 1995 a, b). I may have underestimated the true costs.

Despite the difficult fiscal situation facing the Canadian government during the 1990s, the budget for the CFC has grown rapidly, even exponentially. At the same time the total number of Royal Canadian Mounted Police (usually know as the “RCMP” or simply “the Police” -- only Americans call them “Mounties”) officers has declined, the number of employees working on firearm registration at the Canadian Firearms Centre, and associated government agencies, grew from a handful to at least 600 employees in mid-1999 and to over 1,700 by July 2000 (Breitkreuz, May 20, 1999; July 19, 2000). Despite this impressive growth, there is a backlog of more than a million applications. This situation has prompted the CFC to process incoming applications faster (reportedly one every five minutes), and declare a six month “grace period” for owners before they may be charged for not having a firearm license (Levant 2000).

More importantly in a time of tight fiscal constraints, this growth has meant that other governmental priorities have languished while costs have skyrocketed for firearms licensing and registration. The RCMP budget was virtually frozen between 1993 and 1999, and spending on justice services overall has been decreasing (Statistics Canada, 1999). RCMP salaries were frozen for seven years, and recruiting and training were severely curtailed. Despite declining numbers, a large number of RCMP officers have been seconded to provincial liaison jobs where they assist in the screening of license and registration applications. Although the number of police officers has increased slightly in the last couple years, the absolute number of officers declined between 1990 and 1998 (Besserer and Tufts, 1999). The statistics look even worse when considered as a ratio of the number of police officers to population. This ratio is at its lowest point since 1972 (Statistics Canada, 1996). The ratio of police officers per capita has continued to decline for the past seven years. In 1998, there were 181 police officers for every 100,000 population, but back in 1975, there were 206 police officers per 100,000. This means there is a shortfall of over 500 RCMP officers in BC alone (Besserer and Tufts 1999; Statistics Canada 1999).

These costs might be worth it if the benefits were substantial enough. But what are the benefits? It is true that gun deaths continue to decline, but this decrease does not appear to be linked to the gun laws. Firearm accidents started to decline in the mid-1960s, before the federal gun laws were changed. Similarly, violent crime rates have declined over the past few decades, but no solid evidence can be found linking this fortuitous change to the new gun laws (Dandurand 1998; Mauser and Holmes 1992). -Over three-quarters of all deaths associated with firearms are due to suicides. Unfortunately, there is no convincing evidence showing that stricter gun laws can help reduce suicide rates (Dandurand 1998). Despite the lower rates of firearm ownership in Canada than in the United States, Canada has a higher suicide rate than the United States.

The supporters of firearm registration argue that its benefits are that it controls violence by increasing the difficulty of obtaining firearms and by helping police solve crimes. There is no evidence that merely increasing the difficulty of obtaining a firearm through stricter gun regulations has any important effect on crime rates (Kleck, 1991). The conditions under which registration records might help solve a gun crime are quite narrow (Kleck, 1997). Despite there being a requirement to register handguns since 1934, eighty percent of all reported gun robberies are committed with handguns (Canadian Centre for Justice Statistics, 1999, p. 54). Department of Justice officials admitted that they could not identify a single instance where handgun registration helped solve a crime (Hansard, 1995, p. 12,259). The RCMP has repeatedly (e.g., in 1945, 1977, 1990) recommended against attempting to register long guns such as rifles and shotguns (Smithies, 1998). The benefits of firearm registration appear elusive.

## II. UNIVERSAL FIREARMS REGISTRATION VIOLATES THE BASIC PRINCIPLES SET FORTH BY SIR ROBERT PEEL.

According to Sir Robert Peel, the father of modern policing, the police must have the support of 'the policed' for laws to be enforced effectively (Reith 1948). His principles were enunciated in 1822 when Sir Robert Peel founded the London "Bobbies." However, many firearm owners do not accept the legitimacy of firearm registration. This rejection by the policed necessarily violates Sir Robert Peel's basic principles of policing and accelerates the tendency towards an increasing militarization of police forces. As Peel warned, "the extent to which the cooperation of the public can be secured diminishes, proportionately, the necessity of the use of physical force and compulsion for achieving police objectives." The increasing use of physical force by the police to impose unpopular laws will divide the police from the policed even further.

Table 1. Peel's Nine Principles of Policing:

1. To prevent crime and disorder, as an alternative to their repression by military force and by severity of legal punishment.
2. To recognize always that the power of the police to fulfill their functions and duties is dependent on public approval of their existence, actions and behavior, and on their ability to secure and maintain public respect.
3. To recognize always that to secure and maintain the respect and approval of the public means also the securing of willing cooperation of the public in the task of securing observance of laws.
4. To recognize always that the extent to which the cooperation of the public can be secured diminishes, proportionately, the necessity of the use of physical force and compulsion for achieving police objectives.
5. To seek and to preserve public favour, not by pandering to public opinion, but by constantly demonstrating absolutely impartial service to law, in complete independence of policy, and without regard to the justice or injustices of the substance of individual laws; by ready offering of individual service and friendship to all members of the public without regard to their wealth or social standing; by ready exercise of courtesy and friendly good humour; and by ready offering of individual sacrifice in protecting and preserving life.
6. To use physical force only when the exercise of persuasion, advice and warning is found to be insufficient to obtain public cooperation to an extent necessary to secure observance of law or to restore order; and to use only the minimum degree of physical force which is necessary on any particular occasion for achieving a police objective.
7. To maintain at all times a relationship with the public that gives reality to the historic tradition that the police are the public and that the public are the police; the police being only members of the public who are paid to give full-time attention to duties which are incumbent on every citizen, in the interests of community welfare and existence.
8. To recognize always the need for strict adherence to police-executive functions, and to refrain from even seeming to usurp the powers of the judiciary of avenging individuals or the state, and of authoritatively judging guilt and punishing the guilty.
9. To recognize always that the test of police efficiency is the absence of crime and disorder, and not the visible evidence of police action in dealing with them.

Source: Charles Reith, *A Short History of the British Police*, (London: Oxford University Press, 1948).

In order to be useful to the police, firearm registration requires near-total compliance. However, experience in other countries shows that passive resistance to firearm registration is widespread (Kopel, 1992). Many normal Canadians who happen to own firearms are disaffected by the 1995 firearm legislation. Surveys show that in Canada a high percentage of gun owners will refuse to register their firearms. Willingness to comply may even have decreased. In 1995, 72% said they would comply (Mauser and Buckner, 1997). More recently, a 1997 Environics poll found only 58% who said they would comply (Breitkreuz, 1999c). Press reports of problems with the registry and growing public dissatisfaction suggest that percentage has shrunk since 1997. Many gun owners will sell all their guns; others will just register a few, or they may not

register any. In addition to the gun owners forthright enough to say in a telephone survey they will violate the law, there are undoubtedly others who haven't heard about the requirement, or who resent the invasion of their privacy and who may not answer questions or answer them honestly, or who just won't get around to complying with the law. Experience in other countries shows that passive resistance to firearm registration is widespread among otherwise law-abiding citizens.

Although the chiefs of police support this legislation, surveys of serving police officers show that most other ranks do not. The Canadian Police Association has even voted to reconsider its support for firearm registration. Surveys of serving police officers show a high percentage of officers who do not support this legislation (Breitkreuz, 1999c).

Without resorting to military force, it is difficult to enforce laws that are not supported by the public. This can be seen by the Canadian and American experiences with Prohibition during the early part of the Twentieth Century. More recently, it may also be seen in the effort to prohibit marijuana and other drugs. Such laws are futile because they are exercises in morality. If Prohibition was an attempt to impose rural values upon urban residents, firearm registration may be seen as an effort to inflict urban values upon rural Canadians.

Although many existing gun owners will not comply with registration legislation, it is already having an adverse impact on gun purchases and it may be destroying the Canadian hunting and shooting culture. Many gun owners are abandoning hunting or owning firearms in the face of the increasing arbitrariness of firearm legislation. Parents are finding it increasingly difficult to pass on the values of their rural hunting culture to the next generation. The past two decades of arbitrary and punitive Liberal government gun control measures have devastated Canadian firearm businesses: three-quarters of all retailers selling firearms have gone out of business; over half of all retailers selling ammunition have disappeared (RCMP, 1999). Hunter numbers have declined during the same time period. Mandatory registration will accelerate this trend by turning many rural Canadians into scofflaws, and it will encourage hunting illegally.

Will gun owners register their firearms, drop out of firearm ownership, or continue to own and use firearms without bothering to register them? In assessing the reaction of Canadian gun owners to firearm registration, there are two important questions that need to be answered: first, how many people owned one or more firearms in 1995, and second, what are gun owners doing in the face of this legislation? Without solid answers to these questions, we are unable to evaluate the effectiveness of firearm registration.

How many gun owners are there? In 1995, Department of Justice (DOJ) Canada estimated that about 3.5 million people in Canada owned firearms. I believe 3.5 million is too low. Based on my re-analysis of the DOJ Canada's survey, and my own representative surveys, I estimated that there were about 5 million gun owners in Canada in 1995, not 3.5 million (Mauser 1995a,b).

What will Canadian gun owners do when they are faced with increasingly onerous ownership requirements? The latest DOJ Canada estimate is that there are only 2.4 million gun owners (Canadian Firearms Centre, 2001). The DOJ assumes that this drop is entirely due to former firearm owners who have sold or turned all their firearms to the police, thus removing them from the category, "gun owner." Certainly, many have, however, it seems excessively naïve to assume that respondents will admit that they own a firearm even when they fear it might be illegal. Many, if not most, gun owners would be expected to be uncertain about their compliance with the gun laws, after government advertising over the past few years has stressed the draconian penalties for violating the complex new law. This new estimate by the DOJ implies that almost one million people got rid of all of their guns. Since each Canadian gun owner has slightly more than two guns on average, this means that about two million guns have been sold or turned in to the RCMP. However, there are no records that show this many firearms were sold or turned in for destruction over the past few years. Apparently, many gun owners have quietly kept their guns without getting the necessary license. They are now subject to a criminal penalty of ten years in jail if they "knowingly" refuse to comply with this law.

Many Canadians, particularly rural families, may decide to ignore the law. For cost reasons, some people may choose to become gun 'users' rather than gun owners. All that is needed is that there be one 'official gun owner' per household. Many Canadians will not see the necessity to pay \$10 or even \$80 per person (See table 6.). If only one person in a household signs up as a "government licensed" gun owner, all family members will have access to ammunition and to a gun for protection. These Canadians will be acting illegally of course, but, given the low level of enforcement, many nevertheless will decide that there is no immediate need for

them to conform to the law.<sup>21</sup> The RCMP has unofficially said they will not make any effort to locate such people, but if they encounter an unregistered firearm, they may have to lay charges. Hunting is more problematic; as it is easy to see that a hunting licensed typically implies firearm ownership. Thus, I predict this law will contribute to an increase in poaching.

### III. PUBLIC SUPPORT IS DECLINING.

Voting patterns throw an important light on gun legislation in relation to Peel's policing principles and public acceptance of the law. Politicians are discovering, in both the United States and Canada that calling for more gun control does not contribute to winning elections. For example, even though former Vice President Gore is a strong supporter of stricter gun control measures, he found it expedient to play this down in the Presidential elections last year (Palm, 2000).

It is easy to see why politicians get seduced into believing that calling for more gun control would be politically popular. Between elections, politicians can only gauge public support from public opinion polls. Polls are difficult to conduct, and even more difficult to interpret. Perhaps an illustration will be helpful. In 1995, Professor Taylor Buckner of Concordia University and I asked 1,500 Canadians directly about universal firearm registration (Mauser and Buckner 1997). Our results mirrored those of other polls that have asked this same question (See Table 2.). We found 84% of respondents supported requiring firearms to be registered, which is approximately what Angus Reid found in a survey conducted for the Canadian Coalition for Gun Control (Reid 1993). More recent polls have found that this percentage has declined to approximately 76%. But this still does not tell the full story.

Table 2. "Do you agree or disagree that all firearms should be registered?"

Responses	Atlantic	Quebec	Ontario	Prairies	BC	Canada
Agree	84%	94%	86%	73%	82%	84%
Disagree	13	5	12	22	17	14
Don't Know	3	1	2	5	1	2
(N = 1,505)	100%	100%	100%	100%	100%	100%

Source: Mauser and Buckner (1997)

In public opinion research, a distinction must be made between mass opinion and public judgment. Many respondents will readily volunteer opinions without thinking very deeply about the question; for example, it is easy to agree that poverty should be reduced. They may even agree to pay higher taxes hypothetically. But if people are asked to take money out of their own paycheck to do it, their "support" for eliminating poverty quickly diminishes. This illustrates that public issues involve making difficult tradeoffs. This is also true with firearm registration. Registration sounds like a good idea so long as it does not involve any cost or inconvenience. However, public opinion begins to shift on firearm registration as soon as people realize that it will inconvenience them personally, or cost them--as taxpayers--a fair amount of money, or divert governmental resources from other desired programs (Wade and Tennuci 1994).

Table 3 shows that support for firearm registration drops over thirty points (to 50%), when respondents are told that it might cost \$500 million to register all firearms in Canada. Support for registration drops even further, to only 43% when the trade-off is a reduction in the number of constables on the street. Canadians were particularly opposed to diverting police officers from dealing with violent crime to handling paperwork required by registering hunters and target shooters. This appears to be actually the case. It is not known how much support would drop if respondents knew that the costs are now even higher than \$500 million.

Table 3. Support for firearm registration drops when respondents are informed of the probable costs.

Question: "If it would cost \$500 million, would you still agree [strongly or somewhat] that all firearms should be registered?" (Only asked of those respondents who answered they "agree strongly or somewhat.")

Responses	Atlantic	Quebec	Ontario	Prairies	BC	Canada
Agree	45%	56%	52%	38%	50%	50%
Disagree	46	40	40	51	43	45
Don't Know	9	4	8	11	7	5
(N = 1,505)	100%	100%	100%	100%	100%	100%

Source: Mauser and Buckner (1997)

Question: "If registration would force the police to pull constables off the street to deal with the paperwork involved, would you still agree [strongly or somewhat] that all firearms should be registered?" (Only asked of those respondents who answered they "agree strongly or somewhat.")

Responses	Atlantic	Quebec	Ontario	Prairies	BC	Canada
Agree	42%	52%	43%	31%	44%	43%
Disagree	48	43	48	57	50	50
Don't Know	10	5	9	12	6	7
(N = 1,505)	100%	100%	100%	100%	100%	100%

Source: Mauser and Buckner (1997)

But how does this analysis translate into votes? Many people who support additional gun control measures appear to do so on the basis of uninformed faith and lack of knowledge. A high percentage of supporters are unaware of what gun laws already exist, and, because they have no personal stake in the issue, gun control is not an issue that could be expected motivate them to vote. The costs—hypothetical governmental expenditures—are not immediately real. However, hunters, target shooters, and other gun owners are not uninterested. Gun laws directly affect them. Their costs are not hypothetical—they are real and immediate. The personal cost of further gun control motivates them to vote.

Opposition to firearm registration is deep. Six of the ten provinces, having a majority of Canada's population among them, mounted a constitutional challenge of the 1995 Firearms Act.<sup>33</sup> They lost their challenge, but that should have been expected, given that the Prime Minister unilaterally appoints all of the judges on the Supreme Court of Canada. Despite this, another constitutional challenge has since been launched, based this time of violations of Charter rights by Professor Ted Morton at the University of Calgary.

Despite the absence of any national organization as powerful as the NRA in Canada (the Canadian National Firearms Association is much smaller), the gun issue has had an impact on Canadian politics. Five provinces have held general elections since the Canadian Parliament passed the Firearms Act of 1995 (Bill C-68): Ontario, New Brunswick, Nova Scotia, Saskatchewan, and Manitoba (Ontario is the population center of Canada). Bill C-68 was an issue in every one of them; no party supporting firearm registration was elected. In two of these provincial elections (New Brunswick and Nova Scotia), parties favoring the legislation were defeated and replaced by parties that oppose it. In another two (Saskatchewan and Manitoba), both major parties opposed the legislation, and in the last province (Ontario), the party opposing the legislation won reelection in the face of strong challenge from parties supporting additional legislation (Gunter 1999b). Of course, many factors influence voting patterns, but at the very least it's clear that support of gun legislation is not an electoral plus and is likely a negative.

Firearm registration also had a powerful if subtle impact on the federal election last year. Opposition to firearm registration was an important reason that the Liberals were all but shut out in Western Canada by the Canadian Alliance. Despite a poor campaign, the Alliance gained both votes and seats in BC as well as throughout the West. Opposition to firearm registration even contributed to the Alliance gaining votes and seats in the urbanized Lower Mainland. Although firearm registration was not that important in Central Canada, opposition to firearm registration did help the Alliance to win two seats in rural Ontario, and contributed to the Conservatives holding on in Atlantic Canada.

#### IV. CANADIAN GUN CONTROL ILLUSTRATES THE “SLIPPERY SLOPE.”

The history of gun control in Canada, as in the United Kingdom, demonstrates the “slippery slope” of accepting even the most benign-appearing gun control measures. At each stage, the government either restricted access to firearms or prohibited and confiscated arbitrary types of ordinary firearms. Firearms served as a convenient target, as the public was frightened of them.<sup>34</sup> Government claimed it needed more intrusive violations of basic rights and freedoms to protect the public. But after several increasingly restrictive laws, there is no evidence that these firearm laws actually reduced violent crime (Mauser and Maki, 1998, 1999). The government is unfazed. But the rights and liberties of all Canadians have been reduced.

Gun laws are passed during periods of fear and political instability, then, after the threat recedes, the government’s police powers have increased, and individual rights and freedoms have been diminished. The question seems never to be asked: where is the appropriate level of control for firearms? Politicians continually call for more gun laws, and the bureaucracy continues to grow.

The Great Depression of the 1930s was a period where the Canadian government feared labor unrest as well as American “rum runners.” As a result, in 1934 the government of Canada passed firearms legislation that mandated handgun registration. There were separate permits for “British subjects” and for “aliens.”<sup>35</sup> The RCMP was authorized to issue and to monitor these permits, which were handled at the level of the local detachment. Unsurprisingly, very few “aliens” qualified for the permit.

World War II was a difficult period that saw another round of gun control laws introduced.<sup>36</sup> In 1940, alien firearm permits were revoked, and firearms were prohibited and confiscated from “dangerous aliens” (including Japanese Canadians—even though Canada was not at war with Japan yet). In 1941 Orientals were forbidden to own firearms in BC, including Chinese Canadians, even though China was officially our ally throughout the war. This was the unilateral decision of the BC Attorney General. All firearms (including long guns) were registered during the war years. Registration ended in 1945 at the request of the RCMP who didn’t think it was useful.

Further firearm legislation was introduced during the “red scare” that followed the war. In 1951 the government introduced the registration of automatic firearms.<sup>37</sup> In addition, a new offense, “possessing and carrying” an offensive weapon for “purposes dangerous to the public peace” carried a maximum penalty of 5 years in jail. The 1951 firearm legislation gave the police the authority to search without warrant “a person or vehicle or premises other than a dwelling house” they had “reasonable grounds” to believe they would find a weapon that would be or had been used for a criminal offense. They were also give authority to seize such weapons. This somewhat narrowed the authority police had been given during the war to search without warrant any “premises or person” where it is “reasonably suspected” there are firearms or explosives present.

The Front de Liberation du Quebec crisis in Quebec dominated the late 1960s through the first few years in the 1970s. In 1969, another firearm law was introduced. This legislation created the categories of “restricted weapon” and “prohibited weapon” for the first time. “Restricted weapons” (e.g., handguns) had to be registered and their use was subject to strict conditions—including the requirement that a permit must be obtained by the owner to transport it outside of the place where it is registered. However, citizens were allowed to purchase a restricted weapon if he or she applied for the proper permits.

“Prohibited weapons” (e.g., fully automatic firearms, silencers, switchblades, rifles and shotguns shorter than 66 cm) were made subject to even more stringent conditions than restricted weapons. It became illegal to purchase or to sell a prohibited weapon, with the exception that those individuals who happened to own them before the introduction of the legislation. Despite this exception, pre-existing owners could keep only certain types of prohibited weapons. Other categories—such as switchblades—were confiscated. Severe restrictions were put in place on transporting the exempted prohibited weapons outside the place where they are registered. As well, pre-existing owners were prohibited from buying or selling the weapons amongst themselves. However, until new legislation was introduced in 1978, non-restricted firearms (ordinary rifles and shotguns) could be bought without a police permit.

The 1969 legislation, although passed in a period of crisis, set the pattern for all future firearm legislation in that the wording and conditions attached to restricted weapons permits were no longer established by legislation. The police were given the powers to administratively set the conditions for all firearm permits. Every permit from 1969 onwards must now be “in a form prescribed by the Commissioner [of the RCMP].” As well, the legislation allowed weapons to be designated as prohibited or restricted by Order-in-Council.

Police search and seizure powers were increased. The type of warrantless search and seizure allowed under the 1951 act remained largely unchanged but the grounds justifying such search and seizure were broadened. Under the 1951 Act, police had to have reasonable grounds to suspect the weapon was used for criminal activity. Under the 1969 act, police could utilize such powers on grounds “related to prohibited or restricted weapons” rather than on the grounds “it is being used to commit a criminal offense.” Mere ownership of a type of firearm for the first time is grounds for a police search—even though no offense had been committed.

The current registration system, requiring a separate registration certificate for each restricted weapon, also took effect in 1969. The position of “firearm registrar” within the RCMP was created and given the authority to attach any “reasonable conditions” to the “use, carriage or possession of the [restricted] weapon or ammunition, as he deems desirable in the interests of the safety of other persons.”

For the first time in Canadian history the government gave itself the authority to restrict or prohibit, through Order-in-Council, any firearm “not commonly used in Canada for hunting or sporting purposes.”<sup>iii</sup> Even these measures were too weak, for in 1970 the Canadian government declared the War Measures Act and with the acquiescence of the Premier of Quebec, occupied Quebec with the Canadian armed forces. The War Measures Act was rescinded in 1971, but not before over 4,000 warrantless searches took place in Quebec province; the Canadian Army arrested and detained without warrant or access to legal counsel more than 500 people, 95% of whom were released two months later without charges. The War Measures Act, like the firearm legislation of 1969, were acts of a desperate government struggling with a situation in Quebec that it did not understand. Both measures seriously threatened long-standing Canadian liberties and freedoms.

Table 4. The 1977 Canadian Firearms Legislation  
Proclaimed in August 1977. Came into force in 1978  
and 1979

- \*Required a police permit to purchase a firearm, the Firearms Acquisition Certificate,
- \*Used Orders-in-Council to ban a large variety of weapons, including fully-automatic firearms
- \*Centralized the registration requirements for “restricted weapons” (e.g., handguns, which had been registered since 1934)
- \*Eliminated protection of property as a legitimate reason for registering handguns
- \*Introduced penalty for “unsafe storage” of firearms
- \*Introduced requirements for firearms and ammunition business permits
- \*Introduced additional penalties for the criminal misuse of a firearm during the course of committing another crime (this section has rarely been applied)

New firearms legislation was introduced in 1977 as part of a log-rolling exercise with MPs in order to form a majority for abolishing capital punishment. In this new legislation: automatic firearms, which had had to be registered under the 1951 legislation, were reclassified as “prohibited weapons.” Owners of automatic firearms were “grandfathered,” in that they were allowed to keep them, but they were faced with confiscation without compensation when they died. For the first time since World War I, a police-issued permit was required to obtain “ordinary” rifles and shotguns (the Firearms Acquisition Certificate or FAC).<sup>iv</sup> A provision for a mandatory firearm safety course was abandoned because the provinces and the federal government couldn’t agree who would pay for it.

A new crime was introduced for “unsafe storage of firearms,” although no definition of safe storage was provided.<sup>v</sup> The protection of property was eliminated as a suitable reason for acquiring a restricted firearm, and owners could no longer register handguns at their business address. The police, in practice, began and still continue to refuse an FAC to anyone who indicates she or he desires to acquire a firearm for self-protection.<sup>vi</sup> A variety of weapons-- including some firearms-- were prohibited over the next few years by Order-in-Council.

In 1991, significant changes were made in the firearm law in response to a horrific shooting that shocked the country. In 1989, Marc Lépine, a deranged loner, massacred 14 women at the University of Montreal and then committed suicide. The Montreal Police did not enter building until 30 minutes after Lépine began his rampage. After a lengthy investigation, the Quebec Coroner concluded that poor police response time was

primarily responsible for high number of deaths, not the particular weapon used. Lépine's use of a semi-automatic mini-14 Ruger Ranch Rifle with several high-capacity magazines sparked calls for banning semi-automatic military style firearms as well as high capacity magazines.<sup>xii</sup>

Kim Campbell, then Justice Minister, decided there should be new firearm legislation. The 1991 legislation, among other things, expanded the list of prohibited weapons, to include "converted full automatics" and a large number of semi-automatic military style rifles and shotguns (Owners of the newly prohibited firearms were faced with confiscation without compensation).<sup>xiii</sup> In addition, the government further centralized the handgun registration system.

Bill C-17 passed in the House of Commons on November 7, received Senate approval and Royal Assent on December 5, 1991, then came into force between 1992 and 1994. This legislation made sweeping changes to the FAC system, including requiring applicants to provide a photograph and two references; imposing a mandatory 28-day waiting period for an FAC, and a mandatory requirement for safety training. At the same time, the application form was expanded to provide more background information. Answering "yes" to any of a number of personal questions initiated a deeper investigation. The new application grew to 4 pages long with 35 questions. For the first time, applicants had to provide the names of two people who would act as references for them, in a manner similar to a passport application. If the applicant was married or divorced, one of the references was required to be a spouse or former spouse.

Some of the questions in the application were quite personal, including queries about personal health, finance, and intimate relationships. For example, "During the last five years,

\* Q31. Have you been treated for threatened or attempted suicide, depression, behavioral problems or emotional problems, or are you currently under treatment or taking medication for such?"

\* Q32. Have you been treated for alcohol or drug abuse or are you currently under treatment or taking medication for such?"

\* Q34. Do you know if you have been reported to the police or social services for violence, threatened or attempted violence, or other conflict in your home or elsewhere?"

\* Q35. "During the last two years,...

A. Have you experienced: divorce, separation, or relationship breakdown?"

B. Have you experienced failure in school, loss of job or bankruptcy?"

Bill C-17 required more thorough police screening of FAC applicants, which often involved telephone checks with neighbors and spouses or ex-spouses. Some other major changes included: increased penalties for firearm-related crimes; new Criminal Code offences; new definitions for prohibited and restricted weapons; new regulations for firearms dealers; clearly defined regulations for the safe storage, handling and transportation of firearms; and a requirement that firearm regulations be drafted for review by Parliamentary committee before being made by Governor-in-Council.

Table 5. The 1991 Canadian Firearms Legislation  
Proclaimed in Dec 1991. Came into force between  
1992 and 1994.

October 1992—Registration of semi-automatic military-style rifles; ban of converted automatic military-style rifles; ban of high-capacity magazines; ban of "non-sporting" ammunition.

January 1993—Increase in the Firearm Acquisition Certificate fee from \$10 to \$25/\$50

June 1993 – New FAC requirements: applicants have to:

- \*Complete the firearm safety course
- \*Fill out the long application form (35 questions, including questions about personal health, finance, and intimate relationships)
- \*Provide a passport-type photograph
- \*Obtain two references (one required to be a wife or spouse, for those who are married or in a common-law relationship)
- \*Mandatory 28-day waiting period for an FAC
- \*Increased regulations for firearms dealers
- \*Specific regulations for safe storage, handling and transportation of firearms

January 1994 – April 1994: introduction of the requirement that applicants had to complete the firearm safety course for an FAC

A major focus of the new legislation was control of semi-automatic military-style guns. It also expanded the class of prohibited weapons to include semi-automatic firearms that had been converted from full-automatic. Owners of the newly prohibited firearms were faced with eventual confiscation without compensation. The legislation also prohibited high-capacity cartridge magazines for automatic and semi-automatic firearms. A series of Orders-in-Council prohibiting or restricting most semi-automatic, military-style rifles and some types of non-sporting ammunition.

The Bill C-17 requirement for FAC applicants to show knowledge of the safe handling of firearms came into force in 1994. To demonstrate knowledge, applicants had to pass the test or a firearm safety course approved by a provincial Attorney General, or a firearm officer had to certify that the applicant was competent in handling firearms safely. Bill C-17 added a requirement that safety courses had to cover firearm laws as well as firearms safety.

In late 1994, then Justice Minister Alan Rock announced his proposed gun laws. A few months later, Bill C-68 was introduced into parliament. At the time Bill C-68 was introduced, the government announced, without any discussion in Parliament, that over half of all registered handguns in Canada would be prohibited and eventually confiscated. These handguns had not been misused, nor had any empirical study ever been conducted showing that the banned handguns posed a public threat. The bill was rushed through Parliament and Royal Assent was granted on December 5, 1995. Prior to this legislation being tabled in the House of Commons, the Auditor General of Canada reported that no evaluation of the 1991 firearm legislation had been undertaken (Report of the Auditor General, 1993, Queen's Printer, Ottawa, pp. 647-655). Bill C-17 hadn't even been fully phased in when radical changes in the firearm legislation were being considered.

Major changes included in Bill C68, the Firearms Act of 1995:

\*Criminal Code amendments providing harsher penalties for certain serious crimes where firearms are used -- for example, kidnapping, murder<sup>5v</sup>

\*The creation of the Firearms Act, to take the administrative and regulatory aspects of the licensing and registration system out of the Criminal Code

\*The broadening of police powers of "search and seizure" and expanding the types of officials who can make use of such powers

\*The weakening of formerly constitutionally protected rights and freedom against being required to testify against oneself

\*A new licensing system to replace the FAC system, e.g. licenses required to possess and acquire firearms, and to buy ammunition

\*Stricter requirements for obtaining a firearms [license](#) (the application has now grown to six pages with 45 questions, retaining the personal questions included in the previous application);

\*Registration of all firearms, including shotguns and rifles.<sup>xv</sup>

In October 1998, the Minister of Justice Anne McLellan tabled additional amendments to the 1996 regulations. These did not need to be debated in Parliament. All she needed to do was to announce them. At that time, she also tabled over 1,000 pages of additional regulations, dealing with:

- \*Firearms registration certificates
- \*Exportation and importation of firearms
- \*The operation of shooting clubs and shooting ranges
- \*Gun shows
- \*Special authority to possess
- \*Public agents

The regulations were proclaimed in March 1998. The Firearms Act and regulations are being phased in starting December 1, 1998. The following dates are important for Canadian hunters and target shooters.

- \* By January 1, 2001, all firearm owners must have obtained a license to continue legally owning their firearms, and
- \* By January 1, 2003, all firearms must be registered.

Table 6. The 1995 Canadian Firearms Legislation  
Proclaimed in December 1995  
Comes into force between 1996 and 2003

February 1995. - Prohibition and confiscation of over half of all registered handguns (so-called “Saturday Night Specials”)

- Introduction of two new firearms owners licenses (if owner accidentally allows license to lapse, he is subject to criminal prosecution for illegal firearm ownership)
- POL – Possession Only License
- PAL– Possession and Acquisition License

1996 - Stricter requirements for PAL:

- applicants have to:
- take separate safety courses for rifle and handgun (at \$100 - \$150 per course)
- fill out the long application form (35 questions)
- provide a passport-type photograph
- obtain two references, neither of whom can be a spouse
- spouse or former spouse now asked in addition to two references

-New stricter regulations for safe storage, handling, and transportation of firearms

1998 - New regulations for shooting clubs, shooting ranges, and gun shows

- New regulations (and fees) for export and import of firearms
- Expansion of police powers of search and seizure
- Some suspects of Firearms Act required to testify against themselves

January 2000 – Licensing of firearm owners begun

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July 2000 – Possession Only License fee “temporarily” reduced to \$10 from \$45; Possession and Acquisition License fees remain at \$60 to \$80

January 1, 2001 – All firearm owners are required to be licensed

January 2003 – All firearms required to be registered

According to Canadian law, the police need to go to court to obtain a warrant to search your home. In general, this still is true for people who own firearms. However, there are some frightening exceptions. Section 102 of the Firearms Act allows a “peace officer” to make “periodic inspections” of the home of anyone suspected of having more than ten firearms, or anyone certified as a “gun collector.” These firearms need not be found; all that is necessary is that the peace officer have “reasonable grounds” for believing that the firearms were there.

Section 103 of the Firearms Act states that firearms may be seized without a warrant, if a peace officer has “reasonable grounds” for believing “that it is not desirable in the interests of safety of that person, or of any other person, that that person possess or have custody or control of firearms, ammunition or explosives.” A peace officer may believe such a condition exists if a neighbor or a former spouse has laid a complaint. Obviously, complaints may be laid maliciously by angry neighbors, spouses or former spouses.

The Firearms Act relaxes the conditions under which a warrant is required. Under Section 102, a police officer can seize a restricted firearm (e.g., handgun) if the person in possession cannot “then and there” produce a registration certificate. For example, if the only licensed firearm owner in a household is away at work, and if the spouse or children cannot immediately produce permits allowing them to possess the firearm in question, then that firearm can legally be seized and the family members charged.

Section 102 goes further. It permits a “firearms inspector” (anyone designated by the Registrar to carry out duties under the Firearms Act) to “inspect and sample” whatever he or she believes on “reasonable grounds” to be subject to the Firearms Act. This includes computer records, books, documents, as well as firearms. Section 103 requires “every person found in the place that is being inspected by an inspector under section 102” to (a) “give the inspector all reasonable assistance,” and to (b) “provide the inspector with any information relevant to the enforcement of this Act or the regulations that he or she may reasonably require.” In English, this means that anyone suspected of owning ten or more firearms is required to testify against him or herself.<sup>36</sup>

Immediately after the federal election in 2000, the government decided to classify many popular airguns as firearms; some even became restricted or prohibited weapons. No public announcements of these changes were ever made, so many Canadians are now subject to criminal penalties of up to 10 years in jail without knowing it for failure for registering a firearm or for even possessing a prohibited weapon (Breitkreuz, 2001).

The highly personal questions asked of applicants for a firearm license have recently prompted the Federal Privacy Commissioner George Radwanski to consider launching an official review of the process to license firearms’ owners (Elliott, 2001). He is concerned that the invasive questions may violate the privacy of gun owners and jeopardize their right to a fair trial. He was also concerned that the efforts by the Department of Justice to privatize the gun registry would erode existing Privacy Act rights (Gillis, 2001a, p. A4). He was particularly concerned about the appropriateness of placing personal information gathered by the registry in the hands of a private company rather than police or justice officials. Critics say that privatizing the registry would make it less accountable to Parliament and to taxpayers.

## V. CONCLUSIONS

Universal firearm registration and owner licensing may appear reasonable in theory, but in practice the approach manifests a number of serious defects. In addition to concerns about mismanagement, the firearm registration has been criticized for its abuse of individual privacy and property rights.

No country in the English Commonwealth has managed to introduce or manage firearms registration successfully. For example, in Canada, a number of problems have emerged in the past few years since the federal government has begun to implement firearm registration. First, the costs have escalated far beyond

the original estimates and are seemingly out of control. Costs for owner licensing have already passed the costs of BC's fast ferry fiasco (\$400 million) and they continue to mount. And for what? Few believe that forcing hunters and target shooters to register their firearms will actually reduce criminal violence. This confirms my predictions that firearm registration is unworkable (Mauser 1995a). There is no criminological evidence that imposing strict controls on normal people using firearms has any effect on criminal violence (Kleck 1997, p. 383). Second, the groups that are the most closely involved with firearms, both gun owners and the police, are deeply disaffected by the legislation. As a result of these problems, public support for firearm registration is declining. Despite initially favorable public opinion polls, the Canadian government faces increasing political and legal challenges to firearm registration.

The recent reports that Justice Minister Anne McLellan is trying to privatize the firearm registry suggest that she is trying to distance herself from a poorly administered bureaucratic nightmare that has wasted millions of taxpayer's dollars (Gillis, 2001b, p. A1). Privatization might be commendable if such a step could create a cost-effective, user-friendly system. But many observers wonder if privatization is appropriate given that the registry is based upon criminal law. Failure to comply with it can result in criminal charges. It is difficult to believe that the first government agency to be privatized would be the gun registry. Why not CBC or Canada Post? It appears more likely that the government is simply trying to distance itself from a financial morass that is increasingly apparent to the Canadian public. Many gun owners worry about the eventual costs of firearm licenses if the registry is privatized. Given the high costs inherent in firearm registration, how high will the price of firearm licenses go?

In this article, I have argued that firearm registration is ineffective, impractical, and horrendously expensive. More importantly, the history of gun control in both Canada and the United Kingdom demonstrates the "slippery slope" of accepting even the most benign-appearing gun control measures. At each stage, the government either restricted access to firearms or prohibited and confiscated arbitrary types of ordinary firearms. In Canada, registration has been shown to mean eventual confiscation. As well, police search powers have been increased. The expansion of the state's search and seizure powers should be taken very seriously by all civil libertarians concerned with the erosion of Canadian's individual rights. Canada's democratic institutions may also have been damaged by the transfer of what many would consider legislative powers to both the police and cabinet under firearm legislation.

Firearm registration violate the basic rules of policing set forth in the 1820s by Sir Robert Peel, the founder of the first professional police force, the British Bobbies. In order for laws to be enforced effectively, the police must have the support of "the policed." However, experience in other countries shows that passive resistance to firearm registration is widespread. Instead of seeing gun control as a policy response to violent crime, it is more useful to view it as the product of conflict between urban and rural cultures (Kleck 1996). Much like the temperance movement was an attempt to impose rural values upon urban residents, firearm registration may be seen as an attempt by urbanites to impose their cultural values upon rural Canadians.

The demonization of average people who happen to own a gun lays the foundation for a massive increase in governmental intrusiveness in the lives of ordinary citizens. Firearm registration and gun owner licensing threatens long-standing Canadian liberties and freedoms. The type of gun control legislation Canada has enacted is not consistent with many democratic principles and the protection of civil liberties. Nevertheless, Canada is spearheading a move in the United Nations to impose a similar regime of strict restrictions around the world.

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## Notes

1. Canadians have long decided to ignore the 1934 law requiring them to register their handguns. The RCMP unofficially estimates that there are at least as many unregistered handguns in the hands of "ordinary" Canadians as there are registered handguns. A former BC Provincial Firearm Officer told me that he estimates there are 2 or 3 times as many unregistered handguns in Canadian households as registered handguns (Newson, 1992).

1. Firearm owners may be charged for "unsafe storage" if unauthorized persons have access to their firearms. Charges are still possible even if the firearms have trigger locks and have been locked in a safe.

1. Alberta challenged the legislation on the basis that the federal scheme violated the constitutional distribution of powers. According to the Canadian constitution, the provinces are responsible for regulating normal usage of private property. Three other provinces joined Alberta: Saskatchewan, Manitoba, and Ontario. New Brunswick, and Nova Scotia joined the challenge later after provincial elections changed their government. In addition, all three territories joined the challenge.

1. See Taylor Buckner, "Gun Control Will It Work?" 9 *Journal on Firearms and Public Policy* 175 (1997) <[http://www.saf.org/journal/9\\_work.html](http://www.saf.org/journal/9_work.html)>

5. Up until the law was changed in 1950, Canadian law defined an alien as any person who was not a British subject. Early in the Twentieth Century, few Orientals or Blacks qualified as British subjects, nor of course did many of the Americans then living in Canada.

1. For Canada, World War II started on September 10, 1939, when Canada declared war against Germany. Canada didn't declare war on Japan until after Pearl Harbor.

1. An automatic—or fully automatic—firearm continues to shoot as long as the trigger is held down—or until the magazine is empty. The RCMP were concerned about their potential for misuse, even though automatic firearms are rarely involved in criminal activity.

1. Orders-in-Council are decisions made at the Cabinet level and therefore undergo no parliamentary review and are secret. Neither the public nor the Parliament (outside of the members of Cabinet) are aware of them until they are issued in the name of the Canadian Government.

9. The certificate cost (CN)\$10.

1. Accidental firearm deaths are rare, and in any case, firearm storage is already covered under provincial hunting regulations. Firearm accidents declined dramatically in the 1960s with the introduction of mandatory hunter safety courses (Mauser 1995a).

1. Nevertheless, Canadians still use guns defensively to save their own lives or the lives of their family members at least 60,000 times per year. See Gary Mauser, "Armed self defense: the Canadian case," 11 *Journal on Firearms and Public Policy*, 47, (1999) <<http://saf.org/journal/11Mauser.pdf>>

1. Semi-automatic firearms are self-loading.—A separate trigger squeeze is required for each shot. Many common sporting firearms are semi-automatic.

1. No empirical studies had been conducted to determine which, if any, types of firearms posed a threat to public security. "Military style" firearms were restricted or prohibited primarily because of their "cosmetic" differences from other firearms.

1. Similar penalties have been included in each of the firearm amendments since the 1960s, but they have not been enforced (Meredith et al, 1994).

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