

The Hill Times

A brief history of gun control in Canada

PART I - 1867 to 1945

The history of federal government's efforts to regulate ownership and use of guns

W.T. Stanbury | and Allan Smithies

The huge cost overrun on the Canadian Firearms Program and the deadline for registering all firearms (originally Jan. 1, 2003, then extended by six months) has reignited intense controversy over the rationale and efficacy of Canada's gun controls.

But conflict in Canada over regulating firearms is nothing new. It has occurred many times since Confederation. This is the first of two columns designed to sketch the history of the federal government's efforts to regulate ownership and use of guns, and to briefly outline the context in which new regulatory actions took place.

Social and political conflict has played an integral, but largely unacknowledged, role in the development of Canada's gun control laws. Like the United States, England, Australia and New Zealand, most of Canada's firearm legislation appeared during periods of turmoil. Motivated by perceived threats to the political and economic status quo, and combined with an exaggerated fear of crime and disorder from aboriginals, ethnic minorities, labour activists and the unemployed, gun control in Canada has always been used more for "citizen control" than "crime control."

Only six months after Confederation, the renewed threat of a Fenian-led invasion from the United States prompted the federal government to pass legislation on Dec. 21, 1867, prohibiting "unlawful training of persons to the use of arms," and authorizing the seizure of arms "collected or kept for purposes dangerous to the public peace." The legislation, originally introduced during the 1837 rebellions in Upper and Lower Canada, was applied almost exclusively against Irish-Canadians, many of whom were unjustly considered sympathetic to the Fenian cause.

In 1878, alarmed by violent Orange Day rioting in Montreal that was blamed on Irish-Canadians, the federal government eliminated an accused person's right to a trial by jury, and ordered the licensing of gun owners in proclaimed districts of Canada. The legislation was modelled on repressive statutes used against the Irish by the British government. Known as "The Blake Act" after its proponent, Liberal justice minister Edward Blake, the legislation was temporary in nature and was renewed annually by the federal government until 1883. During its brief existence, it was proclaimed in Montreal, Quebec City and Winnipeg.

The first serious attempt at region-wide gun control in Canada occurred after the second Riel rebellion of 1885. The federal government banned aboriginals, Métis and "disloyal" white settlers in the Northwest Territories from possessing "improved arms" (firearms with rifled barrels) and cartridge ammunition. The legislation allowed them to possess only smooth bore firearms, such as muzzle loading muskets and shotguns. The government was well aware that smooth bore firearms have a maximum effective range of not more than 70 metres, compared to more than 300 metres for firearms with rifled barrels, and as a result, have limited utility as weapons in a military conflict.

The legislation was passed on July 20, 1885, the same day Louis Riel stood trial for high treason. Although afraid that disarming white settlers in the region would ". . . interfere with the protection of peaceable subjects," and provoke another rebellion that the authorities could not afford to suppress, the government never proclaimed it. Nevertheless, it remained on the statute books as late as 1950.

Xenophobia was a major characteristic of both politics and social science in the late 1800s and early 1900s. The "foreign-born," particularly non-whites and immigrants from southern and eastern Europe, were considered by Canada's Anglo-Saxon majority to be "feeble-minded," "prone to violent acquisitiveness" and criminal behaviour. With the large numbers of immigrants that entered Canada at the turn of the century came unorthodox philosophies such as socialism, anarchism, and communism.

The popular belief that "aliens" (non-British immigrants) were genetically inferior, inherently criminal and predisposed to 'radical', i.e. violent, politics was combined with an exaggerated perception of rising violent crime in Canada's "foreign settlements" (immigrant communities). (This has been documented in the book by Carolyn Strange & Tina Loo, *Making Good: Law and Moral Regulation in Canada, 1867-1939*.) This anti-immigrant hysteria became the justification for handgun licensing and registration laws passed by Ontario in 1911, Manitoba and Saskatchewan in 1912, and British Columbia in March of 1913. Similar to the provincial statutes, the federal government's first serious handgun legislation required that civilians obtain a police permit to acquire or carry a handgun. It was passed in June of 1913, the same year that Canada recorded its highest level of immigration.

Following the Winnipeg General Strike of May-June 1919, the federal government responded to the establishment's fears of Bolshevik revolution that were erroneously attributed to non-British "alien scum" by prohibiting non-British immigrants from owning firearms and ammunition. The government was convinced that non-British immigrants, with their ". . . bad habits, notions and vicious practices," were ". . . thoroughpaced Bolsheviks, disciples of the torch and bomb," who showed ". . . [a] greater readiness [to] resort to the use of weapons than do our own people" (Minister of Justice, Hansard, 1919, pp. 4359-4360). This prohibition remained in effect until 1950.

Official concern over a possible Bolshevik revolution peaked in July 1920. The federal government ordered the licensing of gun owners and the registration of rifles. In the government's view, shotguns were ". . . not used in times of trouble as the rifle is," and British subjects who owned shotguns were exempt. (Recall that Canadians were British subjects until 1947 when passports began to identify them as citizens of Canada.) Widespread opposition from firearm owners and rural MPs forced the government to repeal the legislation in June of 1921.

National handgun registration was born in the context of social and political discord during the Great Depression. It was passed on July 3, 1934, having been rushed through the House of Commons in only ten days. The law appears to have been motivated by a fear of insurrections after Tim Buck, leader of Canada's Communist Party, was released from prison in June of 1934, and appeared to the applause of tens of thousands at rallies held in Montreal and Toronto.

The federal government placed handgun registration under the authority of the RCMP. This was done, not because the Mounties were more efficient than local police forces at processing applications (provincial and municipal police services had been registering handguns under authority of the 1913 legislation), but because the RCMP was, according to Lorne and Caroline Brown's *An Unauthorized History of the RCMP*, the federal government's first line of defence against internal disorder, and was considered ". . . the most reliable force in the country for breaking strikes, smashing the radical trade unions, controlling the unemployed and hounding political dissenters."

Confiscation of firearms from ethnic minorities, even those persons who emigrated from nations with which Canada was not at war was common during the First and Second World Wars. For example, registered firearms

were confiscated from Japanese-Canadians early in 1940, long before Canada was at war with Japan, and the Attorney General of British Columbia refused to register any firearms owned by "Orientals" (according to the RCMP's annual report, 1941, p. 59).

The Liberal government's fear of insurrection in Quebec over conscription, and of "fifth column" activity among Canada's "enemy ethnic" communities, resulted in the introduction of universal firearm registration in September of 1940 by order in council. Administered by the RCMP, who often complained about the workload, it remained in effect until February of 1945. No one in the RCMP seems to have been sorry to see it go, which is not surprising since it appears that less than one-half of Canadian gun owners complied with this first attempt at universal gun registration. This was hardly a good precedent considering the widespread support for the war effort. (In the second column on the history of gun control in Canada we cover the last half-century.)

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Brief history of Canada's gun laws

Part II: 1945-1995

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The Liberal government of William Lyon Mackenzie King abandoned the registration of rifles and shotguns in February, 1945, dismantling it before the June, 1945 federal election along with a number of other equally repressive and unpopular Orders-in-Council that had been introduced under the War Measures Act. But members of the Japanese 'race,' even native-born Japanese-Canadians, were still prohibited from owning firearms and ammunition. (Most Canadians fail to appreciate that "multiculturalism" is a late 20th century construct.)

But at the same time that the government repealed the registration of rifles and shotguns, it used the War Measures Act to order the registration of automatic firearms; firearms that can continue to load and fire as long as the trigger is depressed and there is ammunition available in the feed system.

Although the unrestricted civilian ownership of automatic firearms was subject to no more restrictions than "ordinary" long guns and were seldom used in crime, the Department of National Revenue had prohibited their importation since 1929. In 1945, justification for registering automatic firearms was the government's fear that large numbers of these guns would be imported as "war trophies" by returning military personnel.

But those law-abiding citizens who tried to comply with the government's registration order quickly discovered that registration was a fraud. It was really a prelude to confiscation. Even if the applicant was of demonstrated "... discretion and good character," the police seized their automatic firearm when it was presented for registration, refused to register it, and ordered it destroyed. Not surprisingly, police reported that few automatic firearms had been presented for "registration."

While the debacle of gun owner licensing and registration in WWII appears to have soured police and government officials on the subject of registering ordinary long guns, the post-war period saw the RCMP expand its handgun registration bureaucracy.

Recall that in 1933, the federal government had tightened the regulations under which a "permit to carry" a handgun could be issued to civilians, giving the police even more discretion over who could possess and carry handguns and other "offensive weapons." Note that until 1969, a "permit to carry" allowed a person to carry a handgun upon the person elsewhere than in his or her home or place of business.

Increased police screening of applicants combined with the government's requirement that handgun owners belong to approved target shooting clubs -- an expensive proposition during the Great Depression -- ensured that handgun ownership was unaffordable for the unemployed and lower economic classes, which was precisely the government's intention. This framework of complete police discretion was expanded during and after WWII, and new regulations introducing an expanded range of permits for handguns and automatic firearms were introduced in 1951 and 1954.

While the federal government had estimated in 1933 that there were at least 250,000 civilian-owned handguns in Canada, by 1937 only 40 per cent had been registered. Similar to their current mishandling of universal gun registration, rather than admit that it had made a mistake the federal government ordered the re-registration of handguns in 1939 (and every five years thereafter). In 1950, then-justice minister Stuart Garson told Parliament that 45,000 handguns originally registered in 1939 could not be found ". . . despite intensive efforts to trace them." During the 1950s, the Ontario Provincial Police reported that its efforts to encourage compliance with registration were less than successful, and that there were many unregistered firearms (handguns and automatic firearms) in the province.

While the ownership of ordinary rifles and shotguns continued to remain completely unregulated following WWII, homicide and suicide rates in the 1940s, 1950s and early 1960s were considerably lower than they are today. But that all changed as the social upheaval of the 1960s was associated with dramatic increases in social and political violence in Canada and throughout the western world. In this context, the American government introduced the 1968 Gun Control Act, which one investigative journalist described was passed ". . . not to control guns, but to control blacks."

In Canada, the push for more restrictive gun laws had its genesis in the upheaval surrounding the growth of the separatist movement in Quebec and the violent politics of the FLQ. Alarmed by a perception of rising levels of violence, politicians and senior Canadian police officials vigorously pressed the government for "tougher" controls on guns and gun owners.

Just 15 months before the crisis in October, 1970, the federal government reacted to these demands by passing new gun laws that for the first time in Canadian history legally defined long guns as "firearms." It also eliminated handgun hunting and the carrying of handguns upon the person by authorized permit holders. Further, the legislation introduced the concept of "restricted" and "prohibited" firearms. It gave the government complete authority to restrict or prohibit, without consultation, any restricted or prohibited firearm not "commonly-used for hunting or sporting purposes"; authority that would be expanded in subsequent legislation to allow the government to prohibit any firearm.

While the 1969 legislation would be the basis for all future Canadian "gun control" laws, it was short-lived. In 1977, the federal government insisted that even tougher firearm laws were necessary. After more than a year of intense debate the government introduced Bill C-51, prohibiting automatic firearms and requiring civilians to obtain a police-issued permit before acquiring any firearm.

While it has always been maintained that the 1977 legislation was prompted solely by rising levels of gun-related crime and public safety concerns, historical analysis and recently-released Cabinet documents show that the Bill C-51 was passed not to control crime, but to distract public attention from, and to persuade MPs to support, the government's proposal to abolish capital punishment.

The murder of 14 young women at the University of Montreal in December, 1989, is often cited as the catalyst for additional "gun control" legislation passed in 1991 (Bill C-17). However, the federal government appears to have been alarmed more by the violent aboriginal protests occurring at Oka and Kahnawake that were galvanizing aboriginal dissent against the government's inaction on native land claims. The prospect of one hundred other Oka's involving aboriginals dressed in combat fatigues and armed with "military style" rifles frightened the government far more than the criminal actions of one deranged gunman. While, under C-17, the possession of handguns and "military style" semiautomatic firearms were subject to severe restrictions (legally registered "military style" firearms were ordered confiscated without compensation), Canadians retained their right to possess ordinary hunting rifles and shotguns without the government's permission

The 1995 Firearms Act (Bill C-68) was passed by the Liberal government during a period of declining gun violence. Less than five per cent of all violent crimes in Canada involve a firearm, and despite decades of tough laws regulating the civilian ownership of handguns, nearly three-quarters of all gun-related violent crimes involve handguns, most of them unregistered.

While previous administrations in the period following WWII had consistently rejected long gun registration as unworkable, impractical and expensive, the Liberals needed to live up to their pre-election commitments to once again "toughen" Canada's gun laws. The anti-subversive aspect of Bill C-68 was promoted by justice minister Allan Rock who claimed that gun registration will help the government ". . . track paramilitary groups," and find out who is ". . . stockpiling firearms." It is probably not coincidental that the House of Commons rushed through Bill C-68 as Quebecers were debating whether they should vote to remain part of Canada, just before the Oct. 30, 1995 referendum.

Like every other piece of Canadian "gun control" legislation, the real motivation for Bill C-68 was strategic political concerns, not anxieties over crime or violence. It is but another chapter in the "culture conflict." Firearms are symbolic of groups of people and cultures that are disliked, largely for reasons not directly related to gun ownership.

The 1995 Firearms Act, like every other piece of restrictive "gun control" legislation introduced since Confederation, has certainly failed to stop armed crime or eliminate illegally owned weapons. But that is not really the point. The point is that successive Canadian governments, purportedly fearful of mayhem and social upheaval, gradually deprived the Canadian public of a right to be armed that had been a part of a common law heritage recognized in Britain's Bill of Rights of 1689. It states that "the Subjects which are Protestants may have arms for their defence suitable to their condition and as allowed by law."

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