

VICTORIA
POLICE COLLEGE
INSPECTORS, COURSE NO. 51 - 1986

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RESEARCH LECTURE PAPER

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VICTORIA POLICE COLLEGE

INSPECTORS' COURSE NO. 51 - 1986

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FIREARMS - IS IT A POLICE RESPONSIBILITY

SYNOPSIS

Firearms have been present in our community since Australia was founded in 1788. In those early days settlers relied upon the firearm to defend themselves and their families from their enemies and to provide a means of procuring sustenance for the family table.

Neither of those requisites for ownership of a firearm exist in today's society, however the number of firearms present in our community is estimated at a staggering one million, almost all of which are owned and used for sporting purposes. In recent times the proliferation of firearms, as cause to Governments to impose stricter ownership controls and stricter means of usage. Registration is one such measure and has been adopted universally by Democratically elected Governments such as those in the Australian States, New Zealand and Great Britain.

The mandatory registration of firearms has been instituted in Victoria since 1983, in the interim period of 3 years other Australian States and overseas countries have seen fit to abandon the scheme and replace it with stricter forms of firearms ownership. With these recent events in mind the topic of firearms registration and control of firearms legislation by police has been critically examined.

Legislation of Australian States, New Zealand and Great Britain has been reviewed and interviews conducted with members of the legal service, Police firearms authorities and officials from the sports shooting fraternities with the view of obtaining a global view of community feelings.

The conclusions are quite apparent and the recommendations sound- There can be no doubt that firearm registration is ineffective and that education of the firearm user of paramount importance. In conclusion there is also little doubt that the Police as a body are the most suitable agency to supervise firearms legislation and control.

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FIREARMS - IS IT A POLICE RESPONSIBILITY?

INTRODUCTION

Firearms in the Community

1. In the last official survey in 1975 carried out by the Bureau of Australian Statistics (1) there were estimated to be 1,354,700 firearms in Australia and 338,200 in Victoria. (See Appendix "A").
2. There has been no survey conducted since 1975 but the latest estimates of firearms in Victoria by the Firearms Registry in 1982 suggests one million, a dramatic rise in eleven years. (2).
3. Up until April 1986 there was 260,000 licensed shooters' or gun owners' in Victoria. A further 20,000 persons were anticipated to become licensed by June 1986. The current estimates put the number of firearms per licensed persons at 2.8 firearms. In interpreting those figures and the inclusion of airguns and rifles then the figure of 1,000,000 firearms becomes realistic. (3)

Purpose for this Paper

4. It is my intention in this paper to critically examine some aspects of firearms registration and the control in licensing the persons to use these firearms. More importantly, should it be a Police responsibility and can this be effectively carried out and controlled.

(1) General Social Survey. Australian Bureau of Statistics.. 1975. p.3

(2) Interview with the Registrar of Firearms for the State of Victoria Chief Inspector B. Fennessy on April 5th, 1986.

(3) Interview with Chief Inspector Fennessy.

5. In drawing my conclusion I have made use of my research both in Victoria, other Australian States and overseas in respect to firearm controls.

History of Victorian Firearms Control

6. Initial Legislation. The first recorded Victorian legislation to control the use and possession of firearms was The Pea Rifle and Saloon Gun Act proclaimed on November 25th. 1912. (See Appendix "B"). In essence the Act was introduced in order to set the legal minimum age for ownership of Pea rifles and Saloon guns, legislation was also made to create the offences of supplying pea rifles, saloon guns and ammunition to persons under 18 years of age. It is interesting to note that at this time firearm control was made a police responsibility in the organization and control of the Act.

7. The Game Act (now the Wildlife Act) was also responsible for the prohibition of shooting certain species of animals and for setting bag limits for game and controlling the type of firearms used for taking game.

8. First Firearms Act. In 1922 the first Victorian firearms Act was proclaimed and closely followed the workings of the English Act that had been proclaimed two years earlier. Apart from controlling gun dealers it also made police permission necessary to purchase or possess a concealable firearm (pistol).

9. From 1953 to 1972 the Act extended the provision to include rifles other than pea rifles. This provision was introduced to try to keep control over high powered rifles and the people who used them. Members of the shooting fraternity expressed considerable dissatisfaction with these provisions and in 1972, following several reports of the Statute Law Revision Committee of the 1960's, the then Liberal Government repealed the legislation and introduced the Shooters Licence, the system that we now operate under.

10. Objectives of Current Firearms Act. The present day Firearms Act has now consolidated all firearms offences and they are now included in the one Act. The Act has been proclaimed to:

- (a) Control firearm sales and their safe use.
- (b) Allow those who participate in firearms sport to do so, in a controlled manner.
- (c) support the security industry.
- (d) Control and regulate the safe use and presence of firearms in the community.

11. Shooters Licence. From 1972 to 1983 the only firearms required to be registered related to pistols and instruments like humane killing devices shark gun power heads and similarly declared weapons.

12. During this period legislation was enacted that required all persons who were to purchase, carry, possess or use certain firearms to hold a shooters licence, permit or other authority. This legislation was to cover, rifles, shotguns etc.

"Subject to the provisions of this Act no person shall purchase, possess, carry or use a firearm of a type in any category referred to in sub-section (4) unless he holds a shooters licence, permit or other authority granted under this
parc authorizing him to purchase, possess, carry or use such firearm". (4)

13. Licensing Procedures. Any persons resident in the State of Victoria who requires a shooters licence has only to go to his local Police Station, where he will be interviewed by a Policeman. Providing that he can produce sufficient identification and he can satisfy the policeman that he is:-

- (a) of good character.
- (b) over 18 years of age.
- (c) has good reason to possess a firearm.
- (d) good knowledge of firearm safety procedures and law.
- (e) will ensure proper storage of firearms when not in use.
- (f) is not insane, of sober habit and otherwise a person fit to be trusted to use the firearm properly.

Then after a cooling off period of 3 weeks be issued with a Shooters Licence vide Section 4 of sub-section 22AA of the Firearms Act:-

(4) (a) Every shooters-licence shall be in the prescribed form and shall authorize the holder -

- (i) to purchase, possess, carry and use any firearm (not being a pistol) of any one or more of the following categories specified in the licence:-

A - Shot gun.

B - Pea rifle, air gun, air rifle.

C - Any other rifle. (5)

(4) Firearms Acc 1958. No. 6251. Section 2TAA (1).

(5) Firearms Act 1958. No. 6251. Section 22AA (4) (a).

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14. Licence Fee & Proviso's. At present the annual fee for a shooters licence is \$10.00 per year- The applicant may select either an annual licence or a three year licence. The Government has also made provision for exemptions from payment for primary producers and their employees. Pensioners may also obtain licences at a reduced price.

15. Renewal of Shooters & Licence Fee. Upon the expiration of the shooters licence the holder must decide if he wishes to renew the licence or not. Provided that he is still a suitable person he may pay his renewal fee at his local bank. The police do not' play any role in the renewal process and fee collection.

16. Cancellation of Shooters Licence. The Registrar may cancel any shooters licence if in his opinion the holder of a licence:-

- (a) Has proved to be irresponsible for the handling, care and storage of the firearm when not in use.
- (b) Is shown not to be of good character.
- (c) Has wilfully made a false statement on his application form for a shooters licence.
- (d) Has been convicted in Australia of an offence which renders him as an unsuitable person to hold a licence.

17. The Registrar of the firearms may also apply to the Firearms Consultative Committee for cancellation of a shooters licence if the licensee is a person of intemperate habits or insane or otherwise unfitted to be entrusted with the care and use of firearms.

Firearm Registration

18. Reviewing of the Legislation. As previously mentioned in paragraph 9 a form of firearm registration existed in Victoria between 1953 and 1972. However in 1983 the Labour Government of Victoria introduced as legislation the mandatory registering of all firearms within Victoria. The registration was to be phased in over a period of 4 years by each licensed shooter submitting details of his or her firearms when they renewed their shooters licences. At the same time Licensed Gun Dealers were to also submit details of firearms sales as they were made, buyers and sellers of firearms were also to submit the relevant details to the Firearms Registrar. The purpose of this exercise was to have on record by February 1987, every firearm in the

State of Victoria.

19. A fee of \$1.00 per firearm was set as the total registration amount. The firearm was to be registered on a once only basis provided that it was not re-sold. The Victoria Police were made the organizing body and a new position entitled 'Registrar of Firearms' created.

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20. Prior to the implementing of firearms registration the various factions of the shooting fraternity protested against registration in a vigorous manner. To appreciate the situation in Victoria it is necessary to examine the events leading up to registration.

21. Contributers & Resistance to Legislation Changes. In 1979, Delegates of the Australian Police Federation met in Darwin to discuss points of mutual interest. Inspector T. Rippon the Secretary of the Victoria Police Association was present at the meeting and in an interview with him on April 7th, 1986 he related the following points:-

- (a) Delegates from all States of Australia adopted the view that the spread of firearms throughout the community should be contained.
- (b) That no one person should be permitted to possess more than three firearms without having to show cause why they should have another.
- (c) That all firearms should be registered and those records computerised for the use of police in combatting crime. (6)
- (d) That the Delegates from each Australian State should adopt this policy as the official Police Federation policy and that their respective associations would lobby their state government opposition parties to adopt their recommendations.

22. Inspector Rippon states that in 1981 the Labour Party were in opposition and that they adopted the majority of the recommendations made by the Police Association. They did however propose the number of firearms allowable to each person before having to show cause, to one.

23. Upon this formula becoming public the Firearms Traders Association and several large firearms companies such as Remington and Winchester petitioned the 380,000 licensed shooters in Victoria recommending co them not to vote Labour as registration was an invasion of their privacy and the restriction in the number of firearms permitted an infringement on their rights. (The notice distributed is attached at Appendix "C").

24. In addition members of the various shooting associations

circulated papers (Appendix "D" also see interviews in paragraph's 88 and 89) advocating none of their members vote Labour at the forthcoming elections. The Labour party realised that they could jeopardise those 380,000 voters and thus modified their stance to the present situation by not imposing a limit.

(6) Interview with Inspector T. Rippon, Secretary of The Victoria Police Association, Melbourne on March 30th, 1986.

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Implementation of Registration.

25. on November 29th, 1983 the laws applicable to registration of firearms came into operation under Section 22AA of the Firearms Act. The Sub-sections are as follows:-

- " (11) Every person who is the holder of a shooters licence at the commencement of Section 11 of the Firearms (Amendment) Act 1983 shall when he next applies for renewal of his licence after the said commencement notify the registrar in writing the particulars as prescribed of all firearms then in his possession and shall forward with the notification a fee of \$1 for each of those firearms.
- (12) When issuing or renewing a shooters licence the registrar shall record upon the licence particulars of all firearms in the possession of the holder of the licence and in circumstances where such recording is not practicable, may issue a certificate of registration in respect of those firearms.
- (13) The holder of a shooters licence who acquires a firearm as a beneficiary under a will shall within 14 days of acquiring the firearm complete and forward to the Registrar a Notice of Acquisition of the firearm in the prescribed form". (7)

26. The above provisions relate to people already in possession of firearms at the time of the commencement of the Registration period. In addition Legislative provision was made for people who buy and sell firearms other than antiques, firearms or pistols. Any person who sells a firearm to:-

- (a) Any person required by this Act to have firearms in his possession registered; or
- (b) A licensed gun dealer -

shall at the time of the sale deliver to the purchaser a completed Notice of Disposal in the prescribed form together with the current Registration of the firearm (if any). (8)

Notice of Disposal

27. Legislation has also been made to cover the situation whereby

the purchaser is not required to have the firearm registered, i.e. an interstate buyer:-

(7) Ibid., Section 22AA (11) (12) (13).

(8) Ibid., Section 22AA (9).

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"Any person who sells a registered firearm, not being a pistol or antique firearm to any person not required by this Act to have firearms in his possession registered (other than a licensed gun dealer) shall within 14 days of the sale deliver or cause to be delivered to the Registrar a completed Notice of Disposal in the prescribed form together with the current certificate of registration of the firearm". (9)

28. Just as the seller has an obligation to notify the Registrar so does the purchaser:-

"Within fourteen days of the sale of a firearm, not being a pistol or antique firearm, the purchaser of the firearm, if required by this Act to have firearms in his possession registered or if a licensed gun dealer shall send or deliver to the Registrar:-

- (a) A completed Notice of Acquisition in the prescribed form;
- (b) The Notice of Disposal and Certificate of Registration (if any) delivered to him under sub-section (2B); and
- (c) A fee of \$1.00". (10)

Airguns and Air Rifles

29. Air guns and Air Rifles are now included in the definition of firearm. Formerly this was not the case however in an effort to create uniformity throughout Australia almost all states amended their legislation to include air guns and air rifles as firearms. Tasmania was the only state not to amend their legislation.

30. It is however difficult to make any sort of estimate as to how many air guns and air rifles there are in the community as in the past there was little or no control over ownership. Formerly the only forms of control have been in relation to trespass to farms and young persons seeking an authority from the Officer In Charge of the local police station granting him permission to carry and use such weapons.

31. The inclusion of air guns and air rifles in the definition of 'firearm' has introduced a whole new range of shooters licence applicants. There is no doubt that there are significant numbers of such firearms in the community. In an interview with Robert Brewer, the Secretary of Shooting Sports Council of Victoria, he stated that

he had inspected the importation figures over the past several years and he had no doubt that there was a minimum of 200,000 air guns and air rifles in the community. (11)

(9) *ibid.*, Section 22AA (2C).

(10) *Ibid.*, Section 22AA (2D).

(11) Interview with Robert Brewer, Secretary of the Victorian Shooters Sports Council.

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Registration of Pistols

32. One of the major duties of the Registrar of Firearms in Victoria is the issue of pistol licences to approved applicants. Most licences for pistols in Victoria relate to members of sporting or shooting clubs and the Security industry. In the past employees of security companies were personally licensed and owned their own handguns, this created problems particularly after the employee had finished work. The situation has now been altered and the company holds the pistol licence, the employee receives his firearm at the start of work and hands it in at the completion of his shift.

33. At the completion of 1985 there were 12,028 pistols and handguns in the State of Victoria and 14,574 licences to carry these firearms. (Appendix E) A thorough screening is given to all applicants for licences and this assists to eliminate those that are considered unsuitable to hold a pistol licence.

34. The Registrar has the power to cancel pistol licences for persons no longer found to be suitable, this in fact happens from time to time. The licence holder has a right of appeal to the Firearms Consultative Committee, upon receiving an adverse decision he also has the right to appeal to a Magistrates Court.

35. This particular area of firearms control is well managed and the incidence of offences detected by licensed pistol owners is minimal. Whilst it must be accepted that there will always be illicit handguns and pistols in the hands of criminals, the control of legal pistols etc. and the licensing of those individuals is an excellent example of good management by Police Administration.

"If the legal distribution of firearms were restricted, the illegal sources of supply - theft, smuggling and illegal manufacture - would greatly expand to fill this gap. The cold hard fact remains - the criminal element has always found and will continue to find, a way to obtain an illegal firearm".(12)

NEW SOUTH WALES LICENSING AND REGISTRATION PROCEDURE

Licensing of Firearms

36. It is illegal in New South Wales for a person to possess a rifle or shotgun unless he has a current shooter's licence. Applications for shooter's licence can only be lodged at a Police Station or the Police Firearms Registry. It is the practise of the Police to issue the shooter's licence immediately if the application lodged by the applicant does not disclose any adverse information and the applicant is over the age of 18 years. Proof of age is required.

(12) The Police Chief, March 1985. Article by Gregor J. Sambor, 'Tracing Firearms'. p.75.

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37. The applicant may be required to undertake a written or oral test that relates to safety procedures appropriate to the class of firearm he desires.

Police Discretion

38. The Commissioner of New South Wales Police has vested in him unlimited discretion to grant or refuse shooter's licences. It also enjoins him not to licence persons unless they are:-

- (a) Of good character and repute.
- (b) Fit and proper to possess firearms.

Revocation

39. The Commissioner and the Registrar have the power to revoke a shooter's licence in New South Wales but only on certain conditions, the are:-

- (a) Applicant made false statements on his application when applying for a shooter's licence.
- (b) Where he is convicted in New South Wales or elsewhere of a firearms offence.
- (c) Where the holder of a licence can no longer afford the licensed firearms adequate control or where he is proved to be negligent and careless in the use of a firearm.

Upon receipt of notice that his licence is revoked the applicant is to surrender same to the Police. (13)

Registration of Firearms

40. A recent amendment to the Firearms Act has now included mandatory firearm registration. Initially the N.S.W. Government went against registration preferring to make the penalties for firearms offences and crimes involving firearms much heavier than they had been. The incidence of armed robberies and other firearm related crime has now been instrumental in their change of direction. In 1983, there were over 1,000 armed robberies alone. (14)

(13) Firearms Laws in Australia. J. David Fine. CCH Australia Limited, Sydney, N.S.W. p.4.

(14) N.S.W. Armed Robbery Squad 1983 statistics.

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41. At present Registration is accomplished in two ways. Rifles and shotguns owned before the introduction of registration must be registered with the Police and the fee paid then. Only holders of current shooters licences are permitted to register long guns and Police have the power to demand inspection of the firearm before registration. Long guns acquired after the start of the registration scheme will now be registered automatically by the police as a permit is now required to purchase a particular firearm before the actual purchase takes place. There is no limit on the number of firearms one may own.

Comment

42. N.S.W. legislation is now very similar to Victorian legislation with the added rule that one must obtain a permit to purchase a long gun before he can actually buy the firearm. The Police as in Victoria control the issue of shooters licences and registration of the firearms.

QUEENSLAND LEGISLATION

No Existing Licensing Scheme

43. Unless one comes within a class of prevented or prohibited persons, anyone can own, use, acquire and dispose of rifles and shotguns in Queensland without the need for a licence or permit. Queensland neither licences shooters nor issues licences in respect of long guns. Pistols are registered and the owners licensed.

Reason Why No Controls

44. Although some members of the community expressed concern at the lack of firearm legislation, members of the Australian Firearm Law Institute conducted a comparison test between Queensland, West Australia and the Northern Territory who have had licensing and registration procedures dating back to 1950. West Australia was selected because it has the longest history of restrictive legislation in Australia. It was found after comparing the three states, two with severe restrictions on firearms and the other with almost no restrictions that there was very little difference between them and that in almost every component Queensland fared slightly better. On this basis alone it was decided not to introduce licensing shooters or registration. (15)

(15) Firearms Control. Carl G. Vandal. Australian Firearm Law Institute 1984, reprint. p.7.

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Comment

45. The same survey showed that if the Queensland Government were to introduce licensing of firearm owners and register those firearms then they would effectively require a further 282 personnel and that the total cost of implementing such a scheme would be in excess of six million dollars. The Government felt that to introduce such a scheme would reduce the effective strength of the Police Force by 6½ per cent. The Government concluded that in Queensland's case it was not cost effective to introduce restrictive firearms legislation. See Appendix "F". (16)

SOUTH AUSTRALIAN LEGISLATION

Licensing

46. One must have a licence to possess any firearms in South Australia and that licence must be in respect of the class of firearm one wishes to possess. The Police are legally responsible to licence all people who meet the requirement: of the Act. Those requirements are:-

- (a) over the age of 15 years.
- (b) that he is a fit and proper person to hold a licence.
i.e. no history of mental disorder etc.

47. The applicant is required to pass a written examination in the rudiments of firearms safety. The licence is only applicable to the type of firearm:-

- Class "A" - air rifle, air gun, .22 calibre rifle.
- Class "B" - shot gun.
- Class "C" - pistol.
- Class "D" - all other firearms except dangerous weapons.
i.e. machine gun, gas pistol etc.". (17)

(16) *ibid.*, n.16.

(17) The South Australian Firearms Act 1977. Regulation 7.

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48. Prior to 1977 there were no firearms legislation controlling firearm use or possession at all except for pistols. Items like silencers were legal, in fact one of the influencing reasons for the decisions by the heads of the Australian Police Federation to seek uniformity throughout Australia in relation to firearms law was a liberal interpretation of firearms importing laws taken by several South Australian Gun Dealers. During a drug raid in 1979 a number of "UZI" style machine guns were located, no charges could be levelled at the dealer owing to the looseness of the then firearms law. The 1975 Australian Bureau of Statistics survey found that there were approximately 120,900 firearms in South Australia. No doubt a percentage of those firearms are owned or controlled by criminals.
(18)

Registration

49. Apart from its licensing and owners scheme South Australia also maintains a distinct scheme of firearms registration. It is an offence to possess any firearm that has not been registered as soon as 'reasonably practicable' but no more than 14 days after acquisition of it. Prior to acquiring a firearm the applicant must have a shooters licence to suit the category of firearm to be purchased. (19)

Revocation of Licence

50. Where the police believe that a person is no longer fit and proper to be licensed they may apply to the Firearms Consultative Committee to revoke the persons firearms licences. Upon notice of his licence being revoked a person must hand it in to the police immediately.

Firearms Consultative Committee

51. The Firearms Consultative Committee is comprised of a Chairman, generally an Assistant Commissioner of Police, a lawyer and a representative of the shooting fraternity. The panel is appointed annually by the Government. In addition the Chief Commissioner of Police who by law is also the Firearms Registrar personally passes judgement on every decision that is adverse against a persons firearms licence in South Australia. The author of Firearms Laws in Australia, J. David Fine comments in his book:-

"Whilst this structure may result in the appearance of partiality towards police decisions which the Committee is charged to review the author is informed that in 7 years of the Committee's operations no complaints have been raised on this ground". (20)

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- (18) Australian Bureau of Statistics. op. cit.
(19) Firearm Law in Australia. op. cir., p.49.
(20) Firearm Law in Australia. op. cit., p.48.

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Comment

51. South Australian Firearms Legislation is similar to Victorian Legislation in that the police control the legislation and registration procedures. As mentioned in paragraph 48, prior to 1977 the Firearms laws in South Australia were very loose and permitted almost unlimited ownership of firearms. The new Act declared in 1977 however rectified this situation. At the time of writing this report however moves are being made to abandon registration. This will be discussed later on in the paper.

NORTHERN TERRITORY LEGISLATION

Licensing

52. The Northern Territory has enjoyed a form of Firearms control since the early 1950's. At present the firearms legislation is found in the Northern Territory Firearms Act, 1979. Licensing of persons who own firearms and registration of those firearms is employed by the Act.

53. A licence will only be issued to an applicant if he is of or above the age of 18 years and satisfies the Commissioner of the following requirements:-

- (a) he is a fit and proper person to possess, a firearm.
- (b) that he has an adequate knowledge of firearm safety laws.
- (c) that he has not been convicted of a firearm related offence in the Territory or any other State of Australia.
- (d) that he has an adequate knowledge of the Territory Firearm Laws. (21)

54. Should he wish to obtain Class C & D licence (pistol and machine gun type) he must be prepared to show cause. Character checks are conducted as to the suitability of the applicant.

55. The applicant must undergo a written test and answer nine out of the ten questions correctly. The licence when issued is issued for a minimum of three years and is endorsed with the type, calibre and make and serial number of the firearm.

Registration

56. All firearms must be registered and firearm registration certificates can only be issued by the police to the owners of weapons, proof of ownership must be produced at the time of ownership.

One is obliged to register firearms with the police within 14 days of taking possession of them. The registration is valid until the firearm is either lost, stolen or sold. Registration will also lapse if the firearm alters in a manner that affects its safety or qualification for that particular class.

Comment

57. The Northern Territory has one of the oldest firearms control legislations in Australia. In 1981 it was updated and made to conform more with the other states of Australia. Interestingly enough for all its firearm controls it still has largest pro-rata firearm incidents in Australia. For example in 1981 there were six homicides by firearms in each million people in Australia, in the Northern Territory on the same basis there were 49 Homicides per million people. Similarly in 1981 for each 2,531 guns in the Territory there was one gun related homicide, throughout Australia there was one such death for each 28,090 guns.(22)

WEST AUSTRALIAN LEGISLATION

Licensing Procedure

58. In order to own or possess a firearm in West Australia the applicant must be:-

- (a) over 16 years of age and of good character.
- (b) possess a good reason for wanting a firearm.
- (c) not be unfit to hold a licence. (23)

59. The applicant must take his application form to the Police Station nearest his home and he must pass a written test on firearms safety and firearms law. The Police conduct the test and are responsible for the issue of any licence or refusal to do so. Upon being refused the applicant may appeal to the local Magistrates Court.

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- (22) Firearms Control. op. cit., P.9.
(23) West Australian Firearm Act 1973.

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Registration

60. Registration as it exists in Victoria and other States does not apply here. On each firearm holders licence is endorsed the make and calibre of the firearms he owns, this endorsement is made at the time of the granting of the licence or at a later date when he purchases the firearm. The applicant cannot purchase or buy that calibre of firearm unless he has the endorsement on his licence. Individual serial numbers are not indexed and cross referenced to each firearm licensee. Police are the sole agency responsible for this task.

61. There is no restriction on the number of firearms one may have and upon purchasing a further firearm it is a simple matter to have ones licence endorsed by the local police.

62. It is illegal to sell a firearm to persons other than a licensed gun dealer or a person who is licensed to possess that particular brand and calibre firearm.

Comment

63. West Australian firearm laws are generally thought to be the most stringent in Australia, particularly in relation to licensing of individuals and control of the type of firearms they can possess. They do not have firearms registration laws which presently exist in most States of Australia, nor do they see the need to do so in the future.

TASMANIAN LEGISLATION

Firearms Control

64. The Tasmanian Legislation is directed exclusively at the ownership and possession of handguns. It does not in any way restrict or regulate the possession of long arms. Police control the issuing of licences in relation to pistols and gun dealers, they do not have any control over long arms at all. In fact a teenager of 16 years or over can buy a long arm of any description without any form of licensing or instruction of its safe use. It has been publicly quoted that Tasmania's gun laws were so lax that mainland criminals visited the state for express purpose of buying weapons for use in interstate hold-ups, this being facilitated by the lack of identification required when purchasing firearms and the lack of firearm registration. (24)

(24) Melbourne Sun, 8th March, 1979.

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65. Surveys conducted in Tasmania in 1977 indicate that certain areas of the community wanted tighter firearms control. The then Attorney-General Mr. Miller promised at the time that the Government would look into the matter. Nothing has been done since that time except for a general increase in penalty for offences involving firearms. There are no further facts or figures since 1977 to indicate any requirement for change to their firearm laws. In a survey conducted by Professor Harding of the University of New South Wales 85 per cent of firearm owners in Tasmania gave sport as their principle reason for owning a firearm. (25)

A.C.T. LEGISLATION

Firearms Legislation

66. The Firearms Laws in the Australian Capital Territory are controlled by the Gun Licence Ordinance of 1937. It is an offence to possess any firearm including an air rifle in the A.C.T. without a licence to possess one. The ordinance requires that applicants to be of at least 16 years of age. There are no other qualifications required. Any type of firearm other than a pistol may be obtained. The ordinance does provide however, that no licence can be issued before the police are made aware of the persons application and no licence can be issued if the police object.

Applications for Firearm Licence

67. The A.C.T. is unique in that it is the only State or Territory in Australia that provides for non police control of firearms ownership. The police have a right of 'veto' if the applicant, has a criminal record or is mentally unsound. All firearms licences in the A.C.T. are issued for one year and must be then renewed. The Registrar of gun licences in Canberra is the official Government body to control firearms and he may if he wishes revoke any persons licence at any time upon conviction by that person of a criminal offence in the A.C.T. or elsewhere. (26)

Registration

68. Whilst individual registration does not exist as such, a form of firearm registration exists in that each gun owner must be licenced and that each licence entitles him to carry a firearm of the class described on the licence. There is no restriction on the number of firearms that each person may own. (27)

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- (25) Hobart Mercury, August 13th, 1977.
- (26) National Times, May 30th, 1977.
- (27) Firearms Laws In Australia. op. cit., p. 103.

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UNITED KINGDOM LEGISLATION

Firearm Laws

69. Ownership and the registration of firearms in the United Kingdom are controlled by the Firearms Act 1968. Forms of registration and licensing have existed in the United Kingdom since the end of World War One. The system used there varies greatly from most Australian States, for example there are only two firearm classifications which are:-

- (a) pistols and rifles.
- (b) shotguns.

70. Shotguns are not liable for individual registration. A registration fee must be paid if you own one but there is no need to record the brand name and serial number of each gun. Rifles and hand guns are grouped together but must be individually registered.

Police Involvement

71. As in Australia the Police are responsible in the United Kingdom for the issue of firearms certificates. Conditions of issue are however much more stringent than say in Victoria. Requirements for a firearm certificate are:-

- (a) sufficient reason to require a firearm.
- (b) safe storage area for firearm.
- (c) specify where the firearm and ammunition will be when not in use.
- (d) be of good character. (28)

72. In addition to having a check of criminal records made by police the applicant may have to show some form of corroboration of the facts contained on his application form. It is not unusual for police to want to inspect where the firearm will be stored. On this point alone a lot of people are discouraged from applying for ownership of firearms.

(28) Current Firearms Controls op. cit., p. 203.

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73. Unless the applicant is known personally to police enquiries into his background will be made. Enquiries will be made with police from areas that he frequents and generally an Inspector will handle the application personally. Other factors that may influence the police are his family and close associates demeanour. Should for example there be a relative or close friend residing in the same premises as the applicant and that person has a prior conviction for violence or a history of drunkenness then the chances are that the application will be turned down. The applicant is informed of this fact and may appeal to a Court of Quarter Sessions (before a Judge) and argue his point.

74. As a general rule the firearms laws of the United Kingdom are interpreted much more stringently than those of the various Australian States. The only instance where issue of a firearm is relaxed is ownership of a shotgun. As mentioned earlier shotguns are not required to be registered individually but the owner must be licensed, this is generally only a matter of paying the required fee.

Effectiveness of Policing

75. It is difficult to gauge in this particular situation whether or not the strict registration and licence procedures have effectively restrained the number of firearm related offences that have occurred in the United Kingdom. The principle of tight gun control is to stop the flow of guns to the criminal element. It was the intention of the Government in 1973 to introduce individual registration of shotguns, however the firearm enthusiasts protested vigourously and the legislation halted. Since that period the Government has seen fit to increase the price of firearm registration and shotgun licensing, in effect the fee has increased 1,600 % in the last 14 years. See Appendix "G".. (29)

76. By increasing the prices of firearm registration and the licensing of shotgun owners in the manner that they have it would appear that a large volume of people have either sold off their firearms or declined to renew their registrations and licences. The total number of firearms in England and Wales in 1969 was 209,946,. in 1968 the fees were 5s. upon purchase and 2s.d. upon renewal, it was mooted that in 1982 the price would be £41 for purchase and £31 for renewal. See Appendix "G".. It is this very factor of steep price rises that has caused firearm enthusiasts to become militant on the matter of registration..

77. In 1968 the number of firearms registered in England and Wales was estimated at 209,946. At this time the fee to register a gun was very cheap. The Government of the day moved to have shotguns made the subject of registration also. The firearms fraternity in the U.K. argued strongly against such a move. They were successful and the shotgun issue was dropped, however as a trade off the Government increased the price of registration and renewal. Since that time the price of registering a firearm has gone from 5s (\$0.50 -Australian) to £25.00s (\$50.00 - Australian).

(29) Handgunner, September - October, 1982. British publication.

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78. By way of reaction to the price increase in registration it has now been determined that in 1982 there are 51,000 less firearm registrations and the figure is decreasing a further 4,000 each year.

No enquiry has been held to determine whether or not the owners have actually sold their firearms because of the expensive registration fees or they have just not bothered to renew them each year. In effect in 1982 fees had increased by 130 % and registrations were down by 24%. (30) See Appendix "G".

Renewal of Registration

79. In Victoria the registration fee is paid once and that suffices for as long as the present owner retains possession of the firearm, the same system is utilised in all of the other states of Australia. Not so in the United Kingdom, in fact every year the firearm is subject to registration renewal and the local police are responsible for visiting the owner at his home to check that the same condition under which the licence or registration was granted still applies. This may include:-

- (a) does the holder still own the firearm.
- (b) are his storage facilities still adequate.
- (c) has he been convicted of any offences in the past year.
- (d) are his reasons for possessing the firearm still valid. Enquiries will be made with his local gun club to ensure that he is still an active member of the club.
- (e) inspection of the amount of ammunition fired by the applicant. If little use has been made of the gun he may be invited to sell the weapon or he may have difficulty in having the registration renewed.

NEW ZEALAND REGISTRATION

Firearm Registration

80. In 1920 the First World War had just finished with many servicemen bringing pistols and automatic firearms back into the

country. They were freely available at stores. Revolution had occurred in Russia and there was fear that large scale industrial demonstrations could occur in New Zealand. Historically the Arms Act was introduced and registration of all firearms including shotguns was introduced in an effort to control the illegal use of firearms.

(30) Current Firearms Controls. op. cit., p. 212.

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81. The police were given the responsibility to handle the registration and within 2 years there were over 20,000 firearms on file. By 1928 the sheer volume of work in registering all of the firearms was proving difficult for the police, at one stage there were more firearms on record than there were inhabitants of New Zealand. In 1929 a Bill was introduced to Government to dispense with the registration of rifles and shotguns, the Bill was defeated. In 1930 a compromise was reached and shotguns were dropped from the registration list. (31)

82. Initially it was argued that firearm registration was effective in keeping track of firearm movements and a way in which criminals could be located. However the number of firearms on record made indexing the system manually, time consuming and often mistakes were made. Some-criminals were traced via the use of the firearms registrations, however the number is minimal and in 1968 the Police Department decided to put all of its records onto the National computer at Wanganui. This idea failed when it was found that the records were so out of date that it was impracticable.

83. To counter this problem it was decided to have every firearm owner call in to their local Police station with their firearm so an inspection could be made and accurate descriptions could be placed into the computer. At this stage there were 350,000 firearm owners and over 500,000 firearms with no estimate of the number of shotguns.

Those who could not call into the Police Station would have to be visited. Eleven years later in 1979 it was found that some Police Districts had still not completed their enquiries.

Board of Enquiry

84. A Government Board of Enquiry was convened and the subject of the enquiry; of Firearm Registration reviewed At the completion the results were made public and recommendations put to the Government. they were:-

- (a) a personal check of all firearm owners from 1968-73 could not be finished.
- (b) as a result of the check the accuracy of the index was in doubt.

- (c) to register rifles and shotguns as well would mean correcting all existing records.
 - (d) periodic renewal of all records would be necessary.
 - (e) in light of the fact that the last check took eleven years and was still uncompleted it would place a massive burden on the police that was unjustified. (32)
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(31) Project Foresight. New Zealand Government Publication, 1985. p. 3

(32) Project Foresight. op. cit., p. 7.

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85. Consequently it was decided to abandon registration and introduce licensing of the person. Reasons why this was more favourable are:-

- (a) police costs will be reduced.
- (b) very little use of the index and system indicated that it did not assist in tracking down criminals.
- (c) police will have immediate access to records on who is licensed to own a firearm.
- (d) allow recreational shooters to pursue their sport without undue restrictions.
- (e) reduce police time spent on maintaining records.
- (f) allow police to spend more time in the community. (33)

Licensing Procedures for Firearm Owners

86. In 1983 the New Zealand Government passed a new and much revised Arms Act that removed many of the anomalies existing in previous legislation. Regarded by many as being the most enlightened and forward thinking firearms legislation in the Western world this century the Arms Act introduced some significant changes. Foremost amongst these is the discarding of the requirement that all firearms had to be registered with the police. Whilst the police still play a major role in the new Act certain changes have taken place:-

- (a) the applicant is required to obtain an-application form from the police station and detail background information on himself and provide the police with the names of two referees. Both these persons will be asked if the applicant is a fit and proper person-to own a firearm.
- (b) the police will provide the applicant with a book on firearm safety. The applicant will be advised to study the book.

- (c) the police will inform you of a date to attend the New Zealand Mountain Safety Council lecture in the area. At the completion of the lecture which takes 2 hours the applicant will be asked questions from the lecture and the book he was given earlier. A written test will also be given. See Appendixes "H" & Hill.
 - (d) on successful completion of the exam the New Zealand Mountain Safety Council Officer will give the applicant a certificate which he can resent at the police Station. Provided that all the other requirements have been met the police will issue the applicant with a Firearms licence that is valid for life.
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(33) Project Foresight. op. cit., p.8.

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- (e) the licence allows the holder to possess rifles and shotguns of any calibre and to buy, sell or do whatever he wishes with firearms. The minimum age for such a licence is 16 years. (34)

Tables of Comparisons

87. A table of Legislative Comparison is indicated at Appendix "J".

INTERVIEWS AND OPINIONS

Sports Shooting Association

88. Members of the Sports Shooting Association of Victoria hold strong views in relation to firearms control and firearms registration. As part of my research I interviewed the Secretary of the organization Mr. Ted Clarke, a man with over 40 years experience in firearm sport and administration, the following points were discussed:-

- (a) members of the Sports Shooting Association were of the view that the police must play a vital role in the conduct of the firearms legislation and registration as they have control over criminal records and it was not in the community interest to see undesirable people licensed to possess firearms.
- (b) almost all members of the organization, the largest in Australia were of the belief that registration served no purpose other than to serve a means of restricting firearm owners amongst the population and that it would later serve as form of taxation. Members of the Victorian Branch were concerned that the left wing elements of the labour party were practising marxist doctrines in attempting to curb the number of firearms amongst the community.

- (c) most members believe that shooters licences could be issued by a non police organization with the police retaining a right to veto any person found to be found to be undesirable.
- (d) in the past inconsistent view points in relation to firearms control by issuing officers had fueled a lot of ill feelings between some police members and members of the shooting fraternity. It was not unusual apparently for an applicant to be refused a firearm licence in one suburb simply because of the Firearm Inspectors personal view point and dislike of civilians possessing firearms, a simple change of address to an area where a more liberal Inspector worked usually reversed the decision.

(34) The New Zealand Firearm Handbook, 1985 Edition, New Zealand Mountain Safety Council, Wellington, New Zealand.

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- (e) firearms officers often in the past had imposed limits on the number of firearms one could possess without there being any basis at law for the imposition of such limits. Applicants were often forced to go to court and pay out money for Solicitors etc. on the personal whim of a policeman.
- (f) almost without exception members of the Association and allied shooting clubs were of the opinion that registration was an invasion of civil liberties and as such was not a viable proposition. The main basis of this belief was that registration will only reflect the names of the honest people who are prepared to submit their details to the Registrar and that the criminals, who are more likely to transgress the firearm laws would not bother. When all things were to be taken into account it was for this very reason that registration was introduced.
- (g) in the United Kingdom firearms registration fees were now at exorbitant prices and the members here could see that in time the Government may see fit to bring our own fees into line with those in the United Kingdom. It was also likely that an annual fee for registration could be imposed as has been done in the U.K.

Government Statute Draughtsman

89. In an effort to obtain different view points I also interviewed the Victorian State Government Statute Draughtsman Mr. Robert Emmersly. During the interview we discussed several aspects of the initial legislation of which Emmersly had draughted, some of these points are:-

- (a) The objectives of the Firearms Act.
 - (i) protect the public from injury.

- (ii) prevent damage to property from the misuse of firearms and
 - (iii) to minimise the effects of misuse of firearms.
- (b) In reply to a question asking the effectiveness of registration to date, Emmersly replied, "I've yet to see a study that adopts the fact that registration is effective". In relation to our own registration policy an accurate conclusion could not be reached as the initial period will not be completed until January 1987.

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- (c) On the issue of Police control of firearms legislation and registration Emmersly was of the belief that whilst firearms registration was actually carried out by civilians the administration of the Registry and the legislation was best carried out by police. He could not see any alternatives that could be considered viable and was of the opinion that as police controlled the criminal records and that nine out of every ten firearms licence cancellations arose from police observation or police initiated court action they were in fact the obvious choice.
- (d) The financial burden of firearms registration has been capably met by the recent increase in the cost of shooters licences. Initially to cover the cost of computerisation printing etc. and other costs the estimate of one million dollars to set up registration was made. This was based on the estimate of one million firearms being present in Victoria. The ongoing costs of registration were worked out at \$8.30 per shooters licence per year. As can be seen at this stage the cost of issuing shooters licences and registration is cost effective in terms of dollars and cents.
- (e) In terms of cost effectiveness, objective wise it is too early to determine whether or not registration is working in Victoria. Although the Legislative Committee initially envisaged over one million firearms would be registered during the four year registration period, at best there can only be 520,000 firearms registered by February 1987 if the current trends continue.
- (f) In reply to a question of the likelihood of a price rise of firearms registration Emmersly was of the belief that this was most unlikely unless the Government saw it as an avenue of creating indirect taxation.

CONCLUSIONS

Areas reviewed

90. In this paper I have confined my research to the laws relating to firearm registration within Australia and two overseas countries, Great Britain and New Zealand. I chose Great Britain and New Zealand as they have similar lifestyles and political ideologies as Australia. I have also briefly covered the history of firearms registration in Victoria and New Zealand and researched the matter of the issue of shooters licences in all Australian States, the United Kingdom and New Zealand.

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91. When dealing with these two topics I also reviewed matters arising from them, namely the role that police play in the issuing of shooters licences, the administration of firearms registration and legislation and in their absence could a civilian organization take their place or in view of the number of firearms in the community can it be successfully done at all.

Number of Firearms in Victoria

92. In order to establish whether or not registration of firearms can adequately be undertaken it is necessary to determine how many firearms there are in the state. To do this a monitoring system can be set up to gauge the degree of effectiveness of registration. The following authorities have made estimates based on their own formulas:-

- (a) Robert Brewer, Secretary of Firearm Traders Association, estimates one million firearm and several hundred thousand airguns etc. This estimate is derived from facts within his own knowledge and the monthly customs importation sheets.
- (b) Chief Inspector Brian Fennessy, the Registrar of Firearms for the State of Victoria estimates that for every licensed shooter there are 2.8 firearms within the state. It is estimated that the 260,000 licensed shooters own approximately 728,000 firearms. At this stage there are 460,000 firearms registered in the state with an estimate that by the end of the first 4 year registration period in February 1987, there will be approximately 520,000 firearms registered.
- (c) Robert Emmersly, State Government Statute Draughtsman responsible for the legislation in relation to firearms registration estimates one million firearms in the state.

- (d) Mr. Ted Clarke, Secretary of the Shooting Sports Council of Victoria estimates around 800,000 from facts within his own knowledge and adds that with the inclusion of airguns and air rifles onto the definition of firearms there could well be in excess of one million.

93. It would appear that an estimate of the number of guns within the community cannot be made with any great degree of accuracy. As a result of my own investigations and research I believe the figure of one million firearms to be a fair assessment. Even allowing for an error factor of 20% which would reduce my estimate to a minimum of 800,000 firearms it is evident that many people are either not registering their firearms or are only registering some of their firearms.

94. Although the initial 4 years allowing for firearm registration in Victoria has not yet been completed the number of firearms estimated on current trends indicates a maximum of 520,000. This figure is well short of the discounted estimate of 800,000. Using those figures it appears that in February 1987 there will be 280,000 unaccounted for firearms within the State.

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Registration of Firearms, "Is it a Police Responsibility?"

95. If we are to accept that Registration is here to stay and will become an integral part of our firearms control legislation then the question of who is to be the organization responsible for the control of registration must be considered.

Registrar

96. Presently the Victoria Police have a Registrar and Deputy Registrar of Firearms with a staff of 60 public servants who are engaged in the actual physical task of firearm registration.

Police Role

97. The police role in carrying out the registration is minimal, the role of the Registrar and his Deputy is that of a legally appointed guardian acting on behalf of the Government to ensure that the provisions of registration as set down by the Firearms Act is complied with. The police also have the legal authority to be able to prosecute for any breach of the Firearms Law.

98. A comparison to other states in Australia regarding firearm control legislation indicates that the police as a rule are preferred to be the responsible body for firearms control.

Can the task of Registration be effectively carried out

99. The research carried out in relation to the viability of firearm registration strongly indicates that the exercise is costly, inaccurate and ineffective. This is borne out by the fact that it

has been abandoned in such places as New Zealand and in very recent times about to be abandoned in South Australia. One of foremost authorities on British Firearms Legislation the former Chief Inspector Colin Greenwood had this to say in relation to registration:-

"Careful examination of the evidence available suggests therefore Legislation has failed to bring under control substantial numbers of firearms and that it certainly cannot be claimed that strict controls have reduced the number of firearms in crime. On the basis of these facts it might be argued that firearms registration has little effect and don't justify the amount of-police time involved. (35)

(35) Firearms Control. op-. cit., p. 245.

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100. Although firearms registration in most Australian States is a fairly recent innovation it would appear that already some states are preparing to repeal legislation. Registration has only been in operation in South Australia for 5 years but a recent (April 1986) investigation into the viability of the scheme had this to say:-

"If the objective of registration of firearm is to determine their numbers, who uses them and where they are (even if there is another objective which has reasonable substance to it) the apparent inaccuracy of the existing system of registration and its cost indicate that the objective cannot be achieved. (36)

Registration & Administration, Police Role?

101. Research indicates with the exception of the Australian Capitol Territory the police are the body responsible for the registering of firearms and the licensing of person to own or use those firearms in every state and territory of Australia. It would appear that, there is little or no form of protest by members of the shooting fraternities or the public with the present system.

102. This has not always been so, in the past in Victoria the issue of shooters licences by the police created ill feeling between some of the shooting clubs and certain police members. This was bought about by the attitudes of some inspectors towards licensing people to possess high powered rifles and what are now classed as category C weapons. The advent of the Firearms Consultative

Committee and a more uniform and liberal approach towards the granting of licences has eased what previously had been an unpleasant situation.

103. The notable exceptions to police being responsible for licensing and registration is the Australian Capitol Territory and New Zealand. In both cases external bodies are responsible for the licensing of applicants whilst the police maintain their traditional role of checking the character of the applicant. New Zealand authorities take the matter further and then they remove the need to register firearms at all.

104. This system of civilian responsibility for firearms control appears to operate effectively on the surface. However a close look behind the scenes indicates that police still have the overall responsibility for actual firearms control and the right to veto any person thought to be unfit to possess a firearm.

(36) Shooters Journal, April 1986. p. 3.

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105. There is little doubt that the police are in the best position to be used in the administration of the Firearms Act and the registration of firearms. By their constant involvement with the public and the community they are able to monitor firearms, abuse and community trends in relation to the use of firearms. They are also in a position to be able to give feed back to the Firearms Registrar and the Firearms Consultative Committee if required.

106. In recent times members of the shooting fraternities have put forward the motion that they should have the role of looking after their own industry, certainly members of the Victorian Shooters Association and the Victorian Firearms Traders have supported this motion. To add impetus to their argument they cite the current set up in New Zealand whereby the police maintain a background role and allow the New Zealand Mountain Safety Council to conduct the issue of licences.

Lack of Firearms Safety Tests in Victoria

107. Research into the subject of firearms control and registration brings to the forefront the lack of firearm safety tests in Victoria. Whilst other states of Australia and New Zealand conduct safety tests on applicants for shooters licences we in Victoria seem to shy away from it in favour of what appears to be a pointless exercise in the registration of firearms.

RECOMMENDATIONS

Proposed Amendments

108. On research into the viability of firearms registration and the licensing of people to use firearms I find that there are several areas requiring attention. My recommendations are as follows:-

- (a) The initial period of 4 years in which firearm registration was to be phased in is not yet expired. The ineffectiveness of the actual registration is already proving its counter productivity. I therefore recommend that firearm registration be abandoned forthwith as there are hundreds of thousands of firearms that will not be registered.
- (b) In the event of my recommendation to abandon registration not being accepted I believe that the present administrative arrangement of two senior police officials maintaining control and supervising a large pool of public service staff be continued in its present form.

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- (c) I also believe firearms safety testing in the form of written tests should be implemented in Victoria as soon as possible. The New Zealand system could be used as a model.
- (d) The present staff involved in firearm registration or part thereof is more than capable of administering firearms safety testing in a similar manner to that which is performed, --- in New Zealand. Police would retain their right to veto any person found to be unsuitable.
- (e) That the police remain the administrators of the Firearms Act in matters of policy and control but that where possible public servants perform clerical roles.
- (f) I do not see any direct benefit to be obtained by allowing external agencies such as the Victoria Shooters Council to be the Governing body on matters pertaining to firearms control because of their vested interests.

Political Motives

109. The main purpose of this paper has been to examine the viability of firearms registration and the control of the licensing of people to use and possess firearms. I have read many articles on the matters and interviewed several people from both sides of the fence. Without meaning to pre-empt some of the areas under examination I find conclusively that firearms registration is an exercise in futility. I believe that the present registration system is a Political tool that was implemented in order to fulfill an election promise.

Education

110. With the high rate of accidents that occur with firearms mainly as a result of ignorance on behalf of the owner or user I believe that it is paramount that a system of public awareness or education be given to firearm owners and that there can be no better time than right at the start before a person is eligible to possess a firearm. I do not believe that tighter firearms control will reduce the number of firearm accidents but that a better educated user will.

Police Control

111. There can be no doubt that the control of firearms should belong to a disciplined organization with Government affiliations. The police are in the best position to monitor activities within the community and on that basis are the people best suited to control and administer the Act.