

ISSN 0085 7033



THE UNIVERSITY OF SYDNEY
FACULTY OF LAW

PROCEEDINGS
of the
INSTITUTE OF CRIMINOLOGY

No. 64
GUN CONTROL

REGISTERED IN AUSTRALIA FOR TRANSMISSION BY POST AS A BOOK

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**INSTITUTE OF CRIMINOLOGY
SYDNEY UNIVERSITY LAW SCHOOL**

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INSTITUTE OF CRIMINOLOGY
SYDNEY UNIVERSITY LAW SCHOOL

Proceedings of a Seminar on

GUN CONTROL

CHAIRMAN:

The Honourable Sir Laurence Street, Chief Justice

8 May 1985

State Office Block, Sydney

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FOREWORD

H.F. Purnell, A.M., Q.C., LL.B.
Convenor of Seminar,
Member of Advisory Committee,
N.S.W. Institute of Criminology.

When the Advisory Committee of the Institute determined that one of the Seminar Topics for 1985 would be "Gun Control", it did so with the expectation that such topic would ensure spirited and fruitful discussion. These expectations were certainly fulfilled.

The Seminar was enlivened by a formidable contingent of supporters from various groups who can be broadly described as representing the so-called "gun lobby". It was their apparent collective assessment that it was unfortunate that none of the panel presenting papers could be described as being "pro gun".

The Honourable the Chief Justice of New South Wales, who chaired the proceedings, was quick to point out that the Institute had envisaged having as one of the panel a person so orientated, but was frustrated in its attempts to achieve this.

It should also be mentioned that participants present in the audience put the views of a criminal statistician, Bank Employees' Union and the Council of Civil Liberties, amongst others.

The panel chosen by the Institute included a unique combination of two Ministers of the Crown in the person of The Honourable T.W. Sheahan, B.A., LL.B., M.P., Attorney-General for New South Wales and the Honourable Peter Anderson, M.P., Minister for Police. The third paper was provided by Professor Richard Harding of the Australian Institute of Criminology, who has displayed an abiding and learned interest in the topic under review.

In my view the participation of the two Ministers was appropriate because of the very recent changes to firearms legislation in New South Wales in the form of the amending Bill to the *Firearms and Dangerous Weapons Act 1973*. Naturally enough it was this legislation and the ramifications thereof that became the focal point of the evening's proceedings.

Dealing specifically with the panel, Mr Sheahan was ultimately content to approach the topic in a fashion which could broadly be described as philosophical, leaving to his fellow Minister the task of discussing at length the new New South Wales legislation. This Mr Anderson did with purpose and, as Minister responsible for the legislation, demonstrated that he had spent many long and anxious hours in consideration of the many problems involved. Professor Harding again demonstrated his complete familiarity with the topic in hand and his jousting with those with whom he has debated this topic from "Perth to Sydney", enlivened the evening.

Our sincere thanks are extended to the Honourable Sir Laurence Street, Chief Justice of New South Wales for again acting as Chairman for the evening's proceedings and ensuring an effective balance amongst the contributors.

GUN LAWS IN NEW SOUTH WALES — A PERSPECTIVE

The Honourable T. W. Sheahan, B.A., LL.B., M.P.,
 Attorney-General and Minister
 assisting the Premier on
 Intergovernmental Relations.

Introduction

During the period of 1979-1984 the subject of gun ownership and use was studied more intensively than at any other time in Australia's history.

The University of Western Australia held the first Australian National Conference on Firearms Laws and Use in 1981. In that same year Professor Harding's seminal work *Firearms and Violence in Australian Life*¹ appeared following by M.F.L. Huckins *Firearm Control in Australia — A Comparative Analysis of the Legislation and Issues*², in 1982. In 1983 Professor Paul Wilson produced *Gun Violence: A Study of Firearms in Crime, Accidents and Suicide with Particular Reference to the State of New South Wales*.³

These three works, taken together drew on the various Australian and overseas research efforts since the early 'sixties and for the first time presented a comprehensive picture and perspective of the issues gun control legislation in Australia ought address. In addition to these various large individual research projects, Government institutions such as the Bureau of Crime Statistics of the N.S.W. Attorney-General's Department were conducting a number of studies during this period. As well as this concentrated research effort there was considerable legislative response in other States: South Australia (1977), Queensland (1979), Northern Territory (1980), Victoria (1983).

In 1979 the New South Wales Labor Government announced its intention to review the penalty provisions in relation to firearms misuse. The initial review developed into a more comprehensive analysis of the Firearms and Dangerous Weapons Act, 1973 which led to major amendments being introduced into the Parliament in February, 1985. During this period of review the Government was in a unique and privileged position because it was not only able to benefit from the considerable research effort and legislative response mentioned previously, but had the advantage of being able to assess developments arising from landmark legislation passed by the Canadian Parliament in 1977. Closer to home it was able to observe response to amendments to the New Zealand Arms Act.

Apart from the considerable amount of invaluable data and information from these sources, the Government sought submissions from and consulted with representatives from every major shooters, gun and pistol club and association in New South Wales.

A New Gun Policy

After a long and painstaking consideration of all this material, the Government decided on a policy of rationalising, strengthening and extending the shooters licensing provisions of the *Firearms and Dangerous Weapons Act, 1973*, without making them unduly restrictive, to ensure that possession and use of firearms in the community by individuals did not endanger life and property.

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1. Harding, R. *Firearms and Violence in Australian Life*. University of Western Australia Press, Nedlands, W.A., 1981.
 2. Huckins, M.F.W. *Firearms Control in Australia: A comparative Analysis of the Legislation and Issues*. Queensland Parliamentary Library, August 1982.
 3. Wilson, P.R. *Gun Violence: A Study of Firearms in Crime, Accidents and Suicide with Particular Reference to the State of New South Wales, 1983*. Report for the Australian Bank Employees' Union, Brisbane, 1983.

On no reading could this policy have been regarded as radical. Likewise, the legislation reflecting this policy was not earth-shattering. It required that all shooters be licensed and their guns registered. The criteria for the granting of a licence was clearly set forth in the legislation and could not be regarded as "unduly restrictive". Indeed, the clarity of the criteria is one of the outstanding features of the legislation. Finally, all penalties were increased markedly.

In short, the legislation represented a rational attempt to achieve a non-radical Government policy of gun control and reflected sound understanding and lengthy consideration of expert advice from shooters' associations, the most current and relevant research, data and the other legislative responses this country had adopted. It was based on a recognition that the socio economic profile of Australian gun-owners placed them in the mainstream of Australian society.

Parliamentary Response

However, when these amendments were introduced into the House for debate, one could have been forgiven for thinking that the Government had taken no heed of any expert advice or research and had chosen, instead, to embark upon the systematic eradication of every weapon from water pistols to howitzers with the sole intention of ensuring the complete and absolute collapse of the gun industry in New South Wales and the sport of shooting as we know it today.

The Minister for Police and Emergency Services, Mr Peter Anderson, in introducing the Bills said, amongst other things:

There is every indication that in societies such as the United States of America, where the possession and use of firearms proceeds with minimum controls, the misuse of guns may become increasingly destructive, volatile, self perpetuating and intractable ... and The inventory of firearms in N.S.W. is estimated to be 2 million and to be increasing by 3 or 4 per cent each year, a rate faster than the population growth ... and Police Department statistics conclusively demonstrate the preference for guns by those who commit crime.⁴

He went on to mention traditional attitudes expressed by those who wished to tighten control on guns and those who did not. Before turning to the provisions of the Bill, he indicated the overall aim of the legislation in these words:

The proposed legislation before the House today will, I believe, achieve a balance between these two widely differing perspectives — a balance between the Government's responsibility to take all reasonable steps to minimise damage to life and property caused by firearms misuse, and the legitimate needs of individuals to own and use guns.⁵

The tone of the opposition attack is well illustrated by the shadow Attorney-General, Mr Dowd's remarks when he said:-

There are few matters which generate more emotion in rural N.S.W. particularly, but within a country like Australia, than any infringement of a person's right to hold and use weapons. It is very easy to dismiss that part of the Australian character and for those who are used to firearms to dismiss it. It is, in fact, a very highly emotional issue and will always remain an emotional issue for the sort of people who are Australians, who are free people and want that freedom. It is all very well for those who say 'Why should people be able to have guns?' Guns for themselves are part of this Australian tradition. It is part of the Australia that has grown up. We are a people psychologically predisposed to the freedom that is involved in having our own possessions and doing what we like with them.⁶

4 & 5. *Hansard*, (Proceeding of the Legislative Assembly) Thursday 21 February 1985.

6, 7. *Hansard*, (Proceeding of the Legislative Assembly) Wednesday 27 February 1985.

Then followed in both the Upper and Lower Houses a debate abounding with charges of irrationality, sentiment and emotion. Mr Wal Murray's remarks are illustrative:

The proposed legislation will disarm the community. A socialist or Marxist dogma will be imposed upon the community.⁷

Terms such as "knee jerk" and "cosmetic" were adopted as the appropriate description for the legislation.

The debate was not about guns or crime or legal control or research or the eradication of vermin by the "man-on-the-land". It was about "society" and what goes to make up the "good life" within that "society".

The Meaning of the Debate

This is what the gun debate is always about. No matter where or when it occurs you find strongly held sets of beliefs about the world in, apparently, irreconcilable conflict. Moreover, these sets of beliefs are not only about how one world works better than another, but *is* better than another. In short, the debate is always about a social concept. The various statistics take us part of the way to an understanding of the problem, but in the final analysis, it must be accepted that social values lie at the heart of the matter.

I want to suggest that the social concept underpinning the gun control debate is what could be described as the "safe society". Furthermore, I want to suggest that the value involved is freedom and its expression. Finally, I will suggest that we are experiencing a change in the way this freedom is expressed; a move away from the supremacy of materialist expressions of freedom towards those of a more non-materialistic kind.

Allow me to explain what I mean for this can be a rather abstract notion. Professor Harding's paper, "An Ounce of Prevention ... Gun Control and Public Health in Australia", presented as the John Barry Memorial Lecture of 1982, is a very good example of the expression of non-materialistic values.⁸ He argues that the gun problem in Australia is a problem in need of prevention rather than cure. The "problem" he refers to "... is that fear of crime, and in particular, fear of gun crime, leads to responses which are destructive of the quality of life". It is a phrase unheard of before the mid-nineteen 'sixties, which became fashionable during the 'seventies and reached popular currency at the start of the 'eighties. Harding regards "fear of gun crime" as a menace to the "quality of life". He sees it as a product of urban industrial societies which can be prevented if conditions allow more and more people to believe that the purchase of a defence gun is simply an unacceptable response to their social condition. Governments which pass gun legislation of the type we have now in New South Wales are assisting in the development of conditions conducive to the acceptance of this belief by more and more citizens, and are thereby improving the "quality of life".

The "gun lobbyists" have a different view of the "safe society". For them free access to guns is a right without which freedom cannot be attained. They say that the protection of one's person and property by use of a gun guarantees freedom. Governments which restrict access to guns prevent personal and property protection and thereby curtail freedom and threaten the "safe society". In their crudest form the values which these views represent belong to a society long past. They are values of the "frontier society" where the Colt 45 was the peacemaker.

We are living now in the post industrial urban age not the wild west. We are no longer an agrarian society. The Social Contract has been in existence for a long

8. Harding, R. 'An Ounce of Prevention ... Gun Control and Public Health', *Aust. & N.Z. Jour. Crim.*, March 1983.

time now. Robber Barons, laissez-faire and unrestrained individualism are a thing of the past and so too is the duel, the private army and the justice of the gun. Commentators such as Harding draw our attention to dangerous problems that can arise if we allow free access to arms to exist in the urban society of the twentieth century. They point to the hazards that can arise if outmoded social responses are allowed to dictate or unduly influence the progressive development of new social values.

During my time as Minister for Planning and Environment, I was able to witness how values were changing in our society because during that time the Government was being called upon continually to unravel disputes between environmentalists, developers and industrialists. Governments were not involved with these issues twenty years ago. The dominant value then was materialist. It was unquestioned. Since that time this value has not only been questioned, but in many places completely replaced. We are becoming a society where preservation is held more highly than development or destruction. What is described as the "environment movement" is not a passing fad. It is a fact of life to which governments must respond. The statements made and stands taken by this movement are powerful indicators of the sort of life that more and more people want society to provide.

And so it is with the gun debate. It may not be as easy to discern as in environmental debates, but make no mistake about it, the beliefs that give rise to a preference for preservation spring from the same pool of values as the beliefs that give rise to a preference for a society without fear. Guns that are allowed to play a major role in urban life create the fear which so badly damages the increasingly important value people are placing on the *quality* of their lives.

As a responsible Government of social reform the Wran Government must not only recognise the subtle shifts that are occurring to our structure of values, but we must attempt the difficult task of providing laws which reflect the values undergoing change without restricting the direction of their development and progress while at the same time protecting the currently existing value structure. It is this difficult task that the Minister for Police and Emergency Services was referring to when he spoke of the legislation achieving a balance between two widely differing perspectives.

As the Attorney-General of New South Wales, I know how difficult law reform can be. The Firearms and Dangerous Weapons (Amendment) Bill, 1985, is an example of good law reform because it caters not only for the problems of today, but provides a perspective on how to solve tomorrow's.

PRESENTATION OF PAPER

The Honourable T.W. Sheahan, B.A., LL.B., M.P.

In my paper I sought to sketch some sort of a perspective against which to judge what the Minister directly responsible, my colleague Mr Anderson, might say in his paper, and also what comment may emanate from Professor Harding or other people who have submitted written material or those who wish to participate in the discussion.

My experience firstly as a lawyer and secondly as a member representing an essentially rural constituency was fulfilled in the debate that took place inside and around the Parliament during the course of the government's deliberations on this matter and in the course of the passage through the House of the legislation. That parliamentary and associated debate was typical of all such debates with which I have had some involvement over the years, either formally or informally, in that it generated an enormous degree of emotion. Both sides of the argument felt that one of their cherished values, and in both cases the same word was used — the word "freedom" — was under attack. I tried in the paper to suggest that what we were really discussing was a social concept, which we called for argument's sake the "safe society". Both sides of the argument seemed to me to be about that concept, and to want what I have described as a "safe society"; but to disagree how it was to be achieved. Both seemed to agree on the search for freedom as their basic motive and the mark of the safe society. On the one hand the "gun lobby" (as it is called) said that free access to guns guaranteed that freedom and therefore created the safe society, while the opponents of that lobby and those in favour of a strict regulation felt that the gun was likely to create a "fear spiral" and therefore weaken freedom and bring us to a situation where there was no safe society. Both the United States and Australia seem to be heading in that direction, and the argument was, of course, that that spiral could be stopped.

The theorem of the paper was the gun itself might be a materialistic expression of freedom more suited to another era suggesting the generic description "the wild west", but the opponents were talking more in 20th century post-urban society language about concepts that seemed to mean a lot of different things to a lot of different people, mainly the concept of the quality of life. There were similarities and arguments based on the environmental debate, the question of materialism or otherwise, the question of fad or otherwise. What I tried to say was that governments must recognise and respond to that shift in opinions that occurs over a period of years.

Having spent the last twelve months, prior to assuming my current portfolio, as Minister for Planning and Environment I was aware of the shift on many of the arguments that had taken place within that portfolio and within that general area in terms of the conservation of either the ecological environment or the built environment. As a politician who has spent twelve years in the Parliament that shift in opinion has been a rather interesting example of the way in which public opinion on these matters can indeed move, and, in my view, government is about responding to those shifts and the problems that are created or highlighted by those shifts. The government of New South Wales has, in this particular legislation of Mr Anderson, recognised and responded to the shift in opinion on this issue.

I have read with some interest the submissions received insofar as they deal with the matters that I raised in my paper. They seem to be again based on emotional arguments and to adopt a fairly critical tone.

One of the allegations was that my paper didn't mention Greenwood's work. Well the government was well aware of Greenwood's work as was I. The paper was

referring to Australian work only. It seems to me that that criticism is another example of producing facts from figures to back an argument and that is exactly what my paper was saying: that the facts, etc, were not really the issue so far as the critique was concerned. The same comments apply to the criticism that I did not mention the New Zealand Report. Reference is also made in the Sporting Shooters' Association to the Bureau's Armed Robbery Paper of 1977. The figures again appear to be right but again they appear to be somewhat irrelevant to the argument that I was putting because my argument was not about figures, it was more about values and Dr Sutton would be better placed to comment on the specifics. I am accused of not taking into account the conclusions of the Western Australian Conference. I can assure readers of the paper that those conclusions were indeed considered and there were very comprehensive briefings available to me that were considered in the course of the preparation of that paper.

I appreciate the invitation to participate in this seminar, and I hope that the discussion that will ensue from the presentation of the papers will be valuable to all concerned.

GUN LAWS — REFORM OF RESTRICTION

*The Honourable P.T. Anderson, M.P.,
Minister for Police and Emergency Services and
Minister assisting the Premier, New South Wales.*

Introduction

Gun control is an issue which has been and continues to be widely debated both in Australia and overseas. As one commentator has observed, "gun control is one of those issues that continues to inspire sharply divided opinion and vigorous debate. This is entirely understandable because it touches so closely on matters of life and death and on the nature of our individual liberties".¹

Since the 1920s at least, all Australian States and Territories have attempted to exercise some form of control over guns. Of particular concern has been regulation of handguns which, because of their concealability have been generally regarded as instruments of crime. Until more recent years, however, only one State, Western Australia, showed a comparable and continuing concern for longarms. There the underlying philosophy, reaffirmed in a recent analysis,² was that possession and use of longarms was a privilege and not a right. This perspective contrasted with the view generally prevailing in other parts of Australia, that a citizen's possession and use of longarms (other than "prohibited" weapons) was a basic right which a government would only reluctantly curtail.

Until the last few years there has been, however, "nothing which one could describe as common strategy, indeed no articulate agreement on the proper objectives of firearms control legislation"³ in Australia. Recent amendments in the majority of cases, have been in the direction of greater control over gun possession and use. As observed by Professor Harding, these changes have been prompted by Australia becoming an even more urbanised society and by an increasing rate of social change. However, "the sorts of pressures which have provided more or less similar State and Territory laws in relation say, to the regulation of traffic, and uniform laws in relation to the conduct of companies, have evidently not been paralleled in relation to firearms".⁴

This paper deals with the New South Wales Government's response to the issues involved.

Gun Control Legislation in New South Wales

The Firearms and Dangerous Weapons Act which was enacted by the former New South Wales Government in 1973 consolidated various previous gun control laws⁵ into one piece of legislation.

The earliest of these was the *Pistol Licence Act* of 1927 which had replaced the more stringent provisions of the 1920 *Gun Licence Act*. There all persons wishing to purchase, use, carry or possess any gun were required to take out a licence for each gun in their possession with the definition of "gun" including both longarms and pistols. Arguments advanced to repeal this control over longarms echo those advanced during the debate accompanying the passage of the current amendments

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1. Bierlert, M.M. 'Gun Control — Two Perspectives'. *Royal Mounted Police Gazette*. Vol. 44, No. 3., 1982, p2.
 2. Dixon, O.F. *Western Australia — Review of Firearm Legislation*, Report to the W.A. Government, pl.
 3. Harding, R. *Firearms and Violence in Australian Life*. University of Western Australia Press, Nedlands, W.A. — 1981, p2.
 4. Harding *ibid*.
 5. *Pistol License Act, 1927; Firearms Act, 1936; Firearms Act, 1946; Pistol License and Police Offences (Amendment) Act, 1963; and Pistol License (Amendment) Act, 1970.*

to gun laws in this State. One argument was that universal gun control laws are too unwieldy to administer while another concern was the placing of unjustifiable restrictions on the "man on the land".⁶

A complete scheme for regulating the purchase, possession, use, carrying and sale of firearms, for prohibiting the possession of certain dangerous weapons and articles and for certain related purposes connected therewith was contained in the 1973 Act. It included, for instance, provision of police powers to search for and seize guns in certain circumstances. This Act embodied the perceived need of the Government of the day "to strengthen the law relating to the indiscriminate and irresponsible use of firearms including their misuse for criminal purposes, while at the same time being mindful of the requirements of persons who legitimately require firearms either for protection of life and property or for genuine sporting purposes."⁷

In essence this scheme continued the strict control exercised over pistols and introduced fairly loose controls over longarms through a shooters' licensing system. A fundamental weakness was the exemption from the shooters' licensing requirements given where the person concerned was an occupier of land, or invited on to land by the occupier.⁸ While directed at "the man on the land", the wording of the relevant section was wide enough to encompass suburban allotments as well as rural properties.

Another feature of this legislation was its lack of provision for the registration of all guns, in part a reflection of the argument that the magnitude of the task precluded the implementation of such schemes. Such assertions now have to be reassessed in light of the experience in Western Australia and more recently in South Australia and Victoria.

The *Firearms and Dangerous Weapons Act* came in for increasing criticism from the judiciary, police, the Police Association, the Labor Council, unions, banks and other organisations and individuals. The pressure for change led to a review, beginning in 1979 with an examination of penalties under the Act. Subsequently the scope of the inquiry was progressively widened until it encompassed the whole Act, concluding with the introduction into Parliament of the *Firearms and Dangerous Weapons (Amendment) Bill*, 1985. This Bill has passed through Parliament and is now awaiting assent.

Gun Control — the Issues

The extreme views in the gun control debate are easily identified. During the second reading speech on the *Firearms and Dangerous Weapons (Amendment) Bill* in the Legislative Assembly I referred to them in the following terms:

Those in favour of tightening gun controls cite as ammunition for their cause the increasing number of criminal incidents in which firearms are used, as well as the number of accidents involving guns. Gun owners themselves counter that firearms are a cherished tradition, vital to the defence of individuals and their communities. They argue that the problem is criminals who abuse and misuse guns, not the guns themselves.⁹

There is a whole spectrum of opinion between those who would have gun ownership and use severely restricted and those who would be satisfied only if gun ownership and use were totally unfettered. Underlying this is a certain ambivalence

6. *Hansard* 19 January 1972, p488.

7. *Hansard* 3 April 1973, p4287.

8. Forster, J.F. "Firearms — Is Complete Control by Legislation Possible and Necessary". *Australian Police Journal* October-December, 1984, p128.

9. *Hansard* 21 February 1985, p23.

in attitude about guns¹⁰ — they frighten many citizens who can nevertheless come to regard them as essential for self-defence as has been the experience in the United States.

Gun control issues in Australia have been generally analysed in a paper prepared for the Queensland Parliamentary Library¹¹ and in detail by Professor Harding in his study of firearms and violence in Australian life.¹² More recently Dr Wilson's study of gun violence with particular reference to New South Wales has marshalled the available statistical information on firearms in crime, accidents and suicide.¹³

It is outside the scope of this paper to analyse the relevant statistics to the level achieved in the references above mentioned. Indeed, while all parties to the debate agree that the misuse of guns is an increasing problem, lack of relevant comparable statistics cloud the issues involved. The most detailed analyses available in Australia do come down firmly on the side of stricter gun controls on the basis of both existing misuse and the prospect of Australia developing a problem of the magnitude of that currently being experienced in the United States.¹⁴

The public debate does not, however, proceed on the basis of rational argument as the recent passage of the Firearms and Dangerous Weapons (Amendment) Bill through the New South Wales Parliament illustrates.¹⁵ The arguments raised in public against the new legislation clearly echoed the confusion advanced by extreme elements of the "gun lobby" including:

- "responsible" citizens being denied access to their chosen sports, particularly field shooting
- drastic restrictions on the issue of shooters' licences
- an intolerable burden being placed on "responsible" gun owners by continuing and increasing registration fees
- widening of police powers to enter PRIVATE HOME WITHOUT WARRANTS ("gun lobby" emphasis) to search for and seize firearms in certain circumstances
- no provision for payment of compensation to those persons whose firearms will be confiscated and surrendered because they do not qualify for a licence: this involves HUNDREDS OF MILLIONS OF DOLLARS OF PRIVATE PROPERTY ("gun lobby" emphasis)
- "responsible" gun owners being blamed directly or indirectly for the frightening increase in violent crime in our society,¹⁶

Most of these issues emerged during the Parliamentary debates on the Amendment Bill, often without any reference at all to what was actually included in

10. Gest, T. 'Battle over Gun Control Heats up over U.S.' *U.S. News and World Report*, 31 May 1982, p35 and following.

11. Huckins, M.F.W. *Firearms Control in Australia: A Comparative Analysis of the Legislation and Issues*. Queensland Parliamentary Library, August 1982, especially p41 and following.

12. Harding *op cit*.

13. Wilson, P.R. *Gun Violence: A Study of Firearms in Crime, Accidents and Suicide with Particular Reference to the State of New South Wales*, 1983. Report for the Australian Bank Employees' Union, Brisbane, 1983.

14. Harding *op cit* p158 and following and arguments developed in Harding, R., 'An Ounce of Prevention: Gun Control and Public Health in Australia'. *Australian and New Zealand Journal of Criminology*, March, 1983, pp3-19.

15. *Hansard* — Legislative Assembly: 21 February 1985
27 February 1985
6 March 1985

— Legislative Council: 7 March 1985
19 March 1985
20 March 1985

16. Advertisement authorised by Mr K.J. Loy, Firearms Advisory Council in *Daily Telegraph*, 31 October 1984.

the new legislation. Other points raised included the vast amount of police resources that it was (erroneously) anticipated would be required and unwarranted interference being placed on the operations of rural properties. While these points do indeed reflect legitimate concerns (and it is estimated that 57 per cent of New South Wales households have a gun) they do not directly address the basic issues of whether gun laws in this State should aim for restriction or reform.

Restriction — The Issues

In introducing its new gun control legislation in 1983 the Victorian Government proceeded on the grounds of wide community acceptance that a responsible government ought to take all reasonable steps to control and minimise the damage caused by gun misuse. The general objectives of the new legislation were to:

- (a) protect the community at large;
- (b) safeguard the rights and reputations of responsible shooting organisations and licensed shooters; and
- (c) reduce the irresponsible use of firearms by a minority in the community.

This policy had been reaffirmed by the Civil Rights and Law Reform Policy Committee of the Victorian Labor Party when it was in Opposition despite intense pressure from representatives of the "gun lobby".¹⁷ The Committee observed that there was nothing that was put forward by the "gun lobby" nor was there anything in the documentary material presented to it which would persuasively support a policy of not controlling gun ownership and use in the community.¹⁸

Typical arguments by opponents of stricter gun controls are identified, and refuted in Dr Wilson's report.¹⁹ These include:

- Stricter gun laws will lead to a Communist revolution in Australia
- No factual evidence exists to prove a link between cause and effect between the availability of firearms in New South Wales and a number of offences or deaths involving firearms
- Tighter firearms legislative controls in themselves would only restrict law-abiding shooters in lawful purposes
- If people don't use guns to suicide they will use something else
- When guns are outlawed, only outlaws have guns
- Australians would not tolerate tough gun laws
- Police and other experts think firearms legislation is a waste of time.

Despite the pioneering analytical works that have been undertaken in this area, lack of relevant and reliable statistical information or comparative studies as well as the complexity of the issues involved made any objective conclusion about whether New South Wales gun control laws should aim at reform or restriction extremely difficult.

Further, as observed in the Queensland Parliamentary Library Report:²⁰

Whilst it may be possible to confine analysis to comparing firearms legislation in the various Australian States and to ignore the more subjective issues, legislation is not a phenomenon that exists in isolation but a government solution to a perceived societal need. As a consequence, even a comparative analysis will be deficient if it is not carried out in the context of those perceived needs and a concomitant examination of both the validity of the perceptions and the effectiveness of the legislative response.

17. Civil Rights and Law Reform Committee — Victorian Labor Party *Background Paper on Firearms Policy*, June, 1981.

18. Civil Rights and Law Reform Committee — *op cit* p2.

19. Wilson *op cit* p130 and following.

20. Huckins *op cit* p2.

Issues Considered in Reforming the New South Wales Gun Laws

(a) *Community concern about present and threatened problems of gun misuse.*

Regard was had to the statistical and other research evidence about the impact that misuse of guns was having and would have on the security of life and property in New South Wales. It was appreciated that the available statistics were deficient but, nevertheless, they provided evidence of firearms misuse which was a legitimate cause for community concern.

During the review which led to the development of the new legislation many submissions were received from organisations and individuals with diverse interests (e.g., Trade Unions, animal protection), requesting, to varying degrees, the imposition of stricter controls over gun ownership and use in the community. The tragic incident at Milperra gave additional focus to these concerns but, contrary to Opposition claims during the Parliamentary debate, was not the cause of the introduction of the new Act — the review had, in fact, been completed previously and proposals for reforms already submitted.

(b) *Adequate provision of the legitimate needs of persons to own and use guns.*

As in all other Australian States at present, consideration was given to recognising in any legislation the interests of those citizens who responsibly own and use firearms — in competitive sport, for recreation and their livelihood. The Government had consistently expressed its awareness of the needs of sporting shooters and other firearms users and its intention to take these into account in framing any further legislation to control guns. Discussions were held with interested groups in 1979 when proposed amendments to the *Firearms and Dangerous Weapons Act* were initially reviewed and written submissions were also taken into account.

Representatives of various groups were further consulted following Cabinet approval in principle of the proposed reforms and before the amending legislation was drafted. Consultations brought out the diverse views held by different organisations, even those which might be generally termed the “gun lobby”. As could be expected, the more extreme representatives of the “gun lobby” forcefully put forward their opposition to certain aspects of the proposed legislation, particularly its provision for registration, permits to purchase and the good cause requirement in relation to shooters’ licences. Other representatives were more moderate in their views and acknowledged that, in many instances, the concerns they expressed could be allayed by provision of sufficient flexibility in the proposed legislation to deal with anomalies.

The proposed measures in the draft legislation causing greatest concern or opposition were as follows:

- Registration
- Requiring a permit to purchase a firearm
- Fee increases
- Restriction on mail order purchase of firearms
- Restriction on the purchase of ammunition
- Proposed junior shooters’ permits (i.e., further extension of these was wanted)
- Restriction on collectors’ permits (e.g., not permitting the *use* of the firearm concerned)
- Definition of “antique” firearm
- “Good cause” in relation to obtaining a shooters’ licence or permit to purchase a firearm.

(c) *Gun Control Laws in other Australian States.*

Introducing his general review of Australian firearms legislation, Professor

Harding²¹ noted the abundant opportunity for the divergent development of such laws in Australia given that all six States, both Territories and the Commonwealth through the defence and customs provisions of the Constitution, exercised jurisdiction in this regard.

During the late 1970s and early 1980s many States have made major changes in their gun control laws — South Australia in 1977, Queensland in 1979, Northern Territory in 1980, and Victoria in 1983. All of these were carefully considered during the review of the New South Wales Act as well as the Western Australian legislation which imposes a fairly strict system of control. The South Australian and Victorian legislation were found to be particularly appropriate.

The *South Australian Firearms Act* of 1977, which came into force in 1980, provided for the registration of both handguns and longarms as well as the licensing of users. Also it established a Firearms Consultative Committee — a novel concept in gun control in Australia. The Committee could hear appeals from unsuccessful applicants as well as provide advice. In 1983 Victoria followed South Australia's lead and established a similar Committee.

The Victorian legislation attempted to create an equitable and effective system of gun control,²² one which would accord with the general aim of restricting ownership of guns to a number consistent with the "legitimate" needs of the community. A comparison of the Victorian legislation and the New South Wales Firearms and Dangerous Weapons (Amendment) Bill shows many similarities between the two, as well as a number of differences. For instance, the provision in the New South Wales legislation concerning restriction on the sale of ammunition does not occur in the Victorian legislation, although it does in the Western Australian Act.

Another difference is the Firearms Consultative Committee. Unlike South Australia and Victoria, the Committee to be established in New South Wales is not to hear appeals from persons aggrieved by any decision of the issuing authority in relation to firearms licences and permits. Rather the New South Wales legislation provides for appeals in these matters to go to Local Courts. The function of the Consultative Committee in this State will be to monitor progress as the amendments to the Firearms and Dangerous Weapons Act are progressively introduced and to advise on any further amendments that are warranted. Its membership will be comprised of representatives from government, police, firearms interest groups and other organisations.

The amendments to the New South Wales gun control legislation also bring it more into line with the Australian Police Ministers' Council resolution on 21 May 1982, on gun control. This provided that, recognising the difficulties in achieving legislative uniformity in gun laws, where revision of gun laws is considered appropriate, certain guidelines are to be taken into account. These include applicants for both handgun and longarm licences meeting the requirements of being 'fit and proper' (however described) to hold the firearm concerned, showing good cause for holding the firearm and demonstrating practical training and competence in safe handling. Also recommended was the registration of all rifles, shotguns and air-rifles.

One further consideration was for the new New South Wales legislation to facilitate arrangements to introduce reciprocal shooters' licences with at least two of its neighbouring States.

21. Harding *op cit* pl.

22. *Hansard* — Victoria — 24 March 1983, p3540 (second reading speech by the Hon. R. Matthews, Minister for Police and Emergency Services).

(d) *Research and Other Information*

Reference has already been made in this paper to major studies into gun control issues in Australia. Attention was also given to gun control laws in Great Britain, Canada and New Zealand. Material was also obtained from the United States.

The Canadian legislation was of particular interest because of the introduction of new gun control laws in 1977 and because of the commitment of the Canadian Government at that time for a thorough and objective evaluation of the effectiveness of firearms control to be conducted.²³ The Great Britain legislation was generally more restrictive than its Australian counterpart but the deliberations of a Working Party established to review the control of firearms in 1970 provided some insights into the issues involved.²⁴

During its campaign against the introduction of new gun control laws in this State the "gun lobby" made much of the repeal of the registration provisions in the New Zealand gun control legislation in 1983. However, no reference was made to subsequent amendments to the New Zealand *Arms Act* which provided for control to be exercised over the persons using firearms, the basic principle underlying the various gun control laws in Australia. Nor was reference made to other features of the New Zealand legislation which would not be favoured by the "gun lobby".

Other relevant information taken into account during the review included material provided by the New South Wales Bureau of Crime Statistics and Research and material on domestic violence.

(e) *Police Resources*

Opponents of gun control legislation frequently refer to the inordinate amount of police resources which would be involved for guns to be effectively controlled. This could not be supported on the basis of experience in Western Australia, South Australia and more recently, Victoria. In New South Wales the whole licensing area is being reviewed and it was anticipated that its rationalisation and computerisation would permit the additional gun control measures to be implemented with a minimum of additional police resources. Further, flexible commencement provisions in the Firearms and Dangerous Weapons (Amendment) Bill enable the progressive introduction of the new measures once the administrative machinery is in place.

New Gun Control Legislation in New South Wales

The basic approach adopted in the New South Wales Firearms and Dangerous Weapons (Amendment) Bill has not been to restrict the possession and use of guns but rather to provide for a scheme of regulation. Its aims are to ensure that, as far as possible, only persons who pose no danger to others are permitted to possess and use firearms and to promote safe firearms practice.

All the considerations outlined above influenced the final form of the legislation, the main provisions of which are briefly outlined in **Appendix 'A'** (pages 25-27). Three of the most common strategies adopted to regulate the possession and use of guns have been incorporated into the new legislation: licensing of all users, registration of all permitted firearms (except antiques); and substantial penalties for firearms misuse.

The main form of control that is exercised remains the licensing of persons, although the relevant provisions have been extended and rationalised. Special

23. Scarff, E. *et al.* *Evaluation of the Canadian Gun Control Legislation. First Progress Report.* Minister of Supply and Services, Canada, 1981.

24. Green Paper. *The Control of Firearms in Great Britain — A Consultative Document.* HMSO London 1973.

provision is made for the collection of firearms so that legitimate needs in this regard are recognised. Registration requirements parallel those provided in the Victorian legislation, that is once only registration supported by other obligations such as notifying the registering authority of the sale, or other disposal or loss of the firearms concerned.

Other amendments directly aim at preventing gun misuse. For instance, provision is made to empower a member of the police force to search for, seize and detain a gun in circumstances of domestic violence. A gun seized and detained in these circumstances would be returned within twenty-one days, unless the person concerned had become subject to criminal proceedings, or the continued possession of the gun by that person would constitute an offence under the Act. Also a more stringent duty of safekeeping is imposed on people with guns in their possession, both to protect others and themselves. These people will be required to establish that reasonable precautions were taken to ensure the safekeeping of a firearm if it is stolen, lost or accidentally discharged, otherwise they would have committed an offence under the Act.

In the New South Wales legislation the Government has attempted to strike as fair a balance as possible between the perceived needs of its citizens to possess and use guns and protection of the community from the consequences of gun misuse. This balance is to be kept under review and the wide regulation making powers of the legislation will permit further adjustments to be made if warranted.

**OUTLINE
NEW SOUTH WALES FIREARMS AND
DANGEROUS WEAPONS (AMENDMENT) BILL, 1985**

The amendments reflect the grave concern felt in our community about present and threatened problems of firearms misuse. They still enable, however, persons who pose no danger to others to legitimately possess and use firearms.

1. Registration of all Firearms

Registration of firearms which are permitted to be used (or possessed or carried) under a shooter's or collector's licence will be once only, although antique firearms will be exempt.

Registration will, however, require the person concerned to have a valid shooter's licence. Also registration is to be supported by a number of the other measures approved, including strict requirements for notification of the registering authority about the acquisition or sale, loss or other disposal of the firearms concerned and requiring a permit to be obtained to acquire additional firearms.

2. Extension and Rationalisation of Shooters' Licensing Provisions

All persons who own, possess or use a firearm of a prescribed class will be required to have a current shooter's licence. The only exceptions will be for prohibited weapons and pistols (both of which are already subject to stringent provisions under the Act) and where the firearm is owned or possessed under a current collector's licence. Other changes included:

- An application for a shooter's licence must be lodged at the police station nearest to the normal place of abode of the applicant and two weeks will elapse before the licence is issued.
- Applicants for a shooter's licence must pass an oral test of their knowledge about firearms laws and safe practices, must be able to show good cause for the licence and must have reasonable safekeeping facilities for firearms.
- Strengthened provisions covering the personal suitability of applicants for shooters' and pistol licences so they exclude applicants who are unable to personally exercise continuous and responsible control over a firearm and exclude applicants who have been convicted of offences involving violence, serious drug offences or certain other offences.
- Shooter's licences are to be issued for three years but with provision for a one year licence if requested.
- Provision for junior shooters' licences which will permit persons under 18 years to carry specified firearms while under the personal supervision of a holder of a shooter's licence to enable instruction in firearms use to be given.

3. Collection of Firearms

Provision is made for licences which permit the collection, but not use, of various categories of firearms. With one exception ('c' below), the licences will be renewable every three years and holders of these licences may apply for permits to enable the temporary display of the firearms concerned at a place other than the premises specified on the licence.

(a) *Antique Firearms Collector's Licence*

This permits the collection of prescribed antique firearms, including pistols, for their historical, scientific, educational, curiosity or ornamental value or interest. Applicants are to meet the same suitability requirements as those for shooters' and pistol licences and prescribed safekeeping requirements. Each

licensee must keep a register according to regulations providing, for instance, details of the acquisition and disposal of individual firearms.

Where only one or two antique firearms are owned, application may be made by the Commissioner of Police for a declaration that each firearm concerned is a curiosity or ornament only, thereby exempting the owner from being required to have an antique firearms collector's licence but not from the more general provisions of the Act (e.g. offences relating to safekeeping).

(b) *Advanced Collector's Licence*

This permits the collection of prescribed longarms not covered by the antique firearms collector's licence, although applicants are to meet the same suitability and safekeeping requirements.

(c) *Special Collector's Licence*

This enables one or two firearms (other than pistols, antique firearms or prohibited weapons) already owned by the applicant at the date the amending legislation commences, or subsequently acquired under a will, to be kept at the address specified on the licence but not used by the applicant. It is not in force for any specified period, although the licence holder would be obliged to inform the licensing authority if the firearms are moved from the address on the licence.

4. Purchase of Firearms

Current provisions concerning the acquisition of pistols are to be retained while purchase of longarms will require the intending purchaser to:

- have a valid collector's licence or shooter's licence;
- apply to the registering authority for a permit to purchase a firearm;
- show good cause for ownership of the firearm with prescribed reasons including use by a rural property owner, gun club membership and professional shooter.

5. Other Amendments

These include:

- (a) extension of Police powers of search for and seizure of firearms in cases of apprehended domestic violence;
- (b) restricting the sale of ammunition only to holders of an appropriate shooter's licence;
- (c) banning the mail order purchase of firearms;
- (d) imposing a more stringent duty of safekeeping on persons with firearms in their possession;
- (e) extending the provisions covering appeal to the Court against firearms prohibition orders and ensuring that there are appropriate avenues of appeal under the Act;
- (f) provision for amnesties to allow surrender of firearms without penalty;
- (g) recognition in New South Wales under prescribed conditions of shooter's licences issued in another prescribed State.

6. Penalties and Fees

Stringent new penalties carrying both substantial fines and terms of imprisonment for offences under the Act are introduced.

These new maximum penalties include:

- Possession of a firearm, prohibited weapon or prohibited article with intent to commit an indictable offence, resist arrest or prevent arrest of another person: 8 years to 12 years.
- Possession of a pistol without a licence: 2 years to 4 years.
- Carrying a pistol without a licence: 3 years to 7 years.
- Shortening a firearm to convert it to a pistol: 5 years to 10 years.

- Using a firearm in a public place or in a dangerous manner: \$500 and 6 months gaol to 7 years.
- Use, carry or have in possession a firearm without holding a shooter's licence: \$200 to \$1000 or 12 months.

A new schedule of fees has been approved. It retains the same licence fees for target pistol club members while providing for general increases in such areas as licences for corporations and dealers. Fees for shooters' licences will be \$10.00 for one year and \$25.00 for three years, with primary producers and pensioners exempt. The fee to be charged for the registration of each firearm is \$2.00.

7. Transition Provisions

Some parts of the amending legislation (for instance relating to safekeeping arrangements and the more stringent shooters' licensing provisions) will come into effect on the date of assent while the other parts will be implemented as soon as practicable. Other transition provisions will include recognition of existing shooters' licences issued up to 1 September 1984, and enabling persons possessing longarms permitted under the present Act to have them registered. People who have applied for and obtained shooters' licences after 1 September 1984, will have to reapply under the new legislation.

8. Corporate Firearms Licences

Recommendations for the provision of minimum standards for the use and maintenance of firearms by corporations were made following a review of the *Commercial Agents and Private Inquiry Agents Act*, 1963 and other related matters and the machinery to permit this has now been provided.

9. Consultation

A Firearms Consultative Committee comprising representatives from Government, Police and firearms interest groups and other appropriate groups will be established to monitor the new legislation and to advise the Minister for Police and Emergency Services of any further reforms that are considered warranted.

PRESENTATION OF PAPER

The Honourable P.T. Anderson, M.P.

During the parliamentary debate on the Firearms and Dangerous Weapons (Amendment) Bill I observed that the review that had resulted in this legislation had occupied a lot of my attention in the period of slightly more than the three years that I had been a Minister. As I set out in my paper the outcome of the review was not a hurried knee jerk reaction, rather it was the product of as an objective an evaluation as possible of the issues involved and the wide range of viewpoints about these that are held by members of our community. The new legislation is, as my colleague the Honourable Terry Sheahan has explained in his paper, the endeavours of a responsible government to achieve a viable balance between society's need for the protection from the misuse of firearms and individual needs to own and use firearms in ways that do not damage other lives and properties.

Many thoughtful contributions were made to the review. However a small clique within the "gun lobby" has conducted a campaign of confusion and deliberate misrepresentation that clouded any attempts to have an informed or rational debate on the issues involved — and, I repeat, a small clique.

As I mentioned in my paper many of these arguments emerged during the Parliamentary debates on the Amendment Bill often without any reference at all to what was included in the new legislation. They continually surface in any debate about gun control issues even though they may have no regard to logic or facts that can be objectively established. Nevertheless I can appreciate genuine causes for concern about the new legislation.

One illustration is provided by one correspondent who had purchased a .22 calibre rifle some fifty years ago. While the owner no longer had use for the rifle he wanted to hold it until his grandson was a suitable age for hunting. He was concerned he would be forced to surrender the rifle. *The Firearms and Dangerous Weapons Act* is a complex piece of legislation in that it encompasses a complete scheme for regulating the purchase, possession, use, carrying, and sale of firearms, for prohibiting the possession of certain dangerous weapons and articles, and for certain connected purposes such as the provision of police powers to search for and seize guns in certain circumstances.

Before amendment it was a definite statement on gun control incapable of being adjusted to meet changing circumstances without undergoing the formal process of amendment. The new legislation has built upon this framework in order to preserve the existing distinction relationships inherent in it. For instance, by continuing the distinction between the provisions covering pistols and those covering long arms. In the latter case the main scheme of control in the new legislation has remained a shooters' licensing system albeit is one that is rationalised and extended to remedy the patent inadequacies of the existing provisions. Because so many changes were required to make provisions as diverse as collectors' licences and police powers to remove and detain firearms in cases of domestic violence, the Amendment Bill is lengthy. No doubt, some of its finer points will not be generally appreciated or disputed until a consolidated version of the Act makes them easier to follow. Because of the length of the amendments explanatory notes on the front of the Bill are more expansive than usual providing a clear run down of the measures that it introduces. A brief outline of the main points is attached as an Appendix to my paper (see pages 25-27).

One particularly notable feature is the provision of wide regulation making powers to permit more rapid response to individual situations to be made. This will enable for provisions to be made for the collectors who have informed me that they

own 500 or more guns. As for the .22 rifle owner that I referred to his concerns will be met by a special collectors' licence. Under special collectors' licences people who already own one or two firearms other than pistols, antique firearms for which other arrangements are made in the Bill and weapons now prohibited under the Act, will be able to keep the firearms concerned at the address specified on the licence. Applicants for this licence will not be required to specify any reason for keeping the firearms concerned, but they will be required to register the firearms. This will entail a once-only cost of \$2.00 per firearm, with primary producers and pensioners exempt and other cases where this will cause hardship will be reviewed. Unlike other collectors' licences that are to remain in force for three years there will be no requirement for a special collector's licence to be renewed although licence holders will be obliged to inform the Licencing Authority if the firearms are removed from the address on the licence, and a shooter's licence will still be required for firearms to be legally used.

My colleague the Attorney-General has considered gun control issues from the wider perspective. In my paper I have dealt with the New South Wales government's response to the issues involved in more concrete terms, the particular issue involved, the consideration given to those issues and their expression in new gun control legislation in New South Wales. Because of the need to cover so much ground in so short a space I have had to confine by paper to general remarks. This does not permit any real indication of the complexities of many of the issues as may be illustrated by the arguments surrounding the requirement of "good cause" for applications for a shooter's licence.

Professor Harding's paper refers to this provision under the heading of "Justification for shooter's licence exclusion of high risk applicants, inclusion of low risk applicants". The Section of the Act at issue is 22(5) which provided:

The Commissioner shall not grant an application for a shooter's licence unless he is satisfied that the applicant is of good character and repute, is a fit and proper person to hold a shooter's licence, can be trusted to have firearms not being pistols in his possession and to use and carry them without danger to the public safety or to the peace.

As application of this section could determine whether a person obtained or was denied a shooter's licence it was the source of continual complaints. It made no indication of how a person would be judged to be fit and proper. In practice this often meant in the opinion of a police officer at the police station at which the licence was issued, although an appeal could be made to a local court. Inconsistent outcomes led to perceived injustices which were loudly deplored by the gun lobby. The reform of this section encompassed the two objectives which underly the reform of the New South Wales gun laws.

The first is the issue of community protection which in this example can, to use Professor Harding's phrase "be expressed as exclusion of high risk applicants".

Secondly is the issue of protection of legitimate users which can be expressed in this example as inclusion of low risk applicants.

In this instance these objectives were met in the following way:

Section 22(5) of the Act was amended to delete "fit and proper person". This being replaced in the Section by "a good reason" requirement. Instead of "fit and proper" new criteria was introduced in the form of s.22(5a) to exclude applicants who may not personally exercise continuous and responsible control over the firearms to which the application relates. In an effort to increase certainty about the scope of the provision factors indicating social or personal instability including unsound mind or intemperate habits were set out. The list is by no means complete and further additions under the regulation making power expected following the advice of the Consultative Committee that I announced would be established.

Other provisions were made to exclude persons convicted of serious narcotic offences or offences involving violence. To balance the restrictive effect of the "good reason" amendment the new s.22 (5) (b) sets out categories of applicants who will be deemed under the Act to have good reason. Hence those listed i.e. rural property owners, members of approved firearms clubs and those whose lawful business requires the use of firearms would be recognised, as well as any other good reason. The categories specified in this case are also not complete and further conditions can be expected following the advice of the Consultative Committee.

I am pleased to note Professor Harding's assessment of the provisions as seeming to be a very sensible and balanced package. Yet they drew extreme and sustained opposition from certain elements in the gun lobby and were widely used to fuel rumours in the sporting community. The arguments surfaced during the Parliamentary Debate where, amongst other things, it was claimed that the new provisions would specifically eliminate sporting shooters, eliminate the legitimate use of firearms by law abiding citizens, hinder normal property and farm management because shooters would no longer be able to assist in the control of wild ducks, dingoes, wild dogs, rabbits, and other pests. Some of the rumours were more subtle. For instance, individual shooters would have to join shooting organisations to satisfy the "good reason" requirement. I have clearly and repeatedly stated that this will not be the case. The "good reason" example I have referred to clearly shows that the detailed as well as the general level public debate about gun control issues generally proceeds on an emotional rather than a rational basis. The submissions that have been circulated in response to the main papers prepared for the seminar bear this out to varying degrees. Even where some recourse is made to research evidence, or to developments in other areas, anything that calls the gun lobby arguments into question is ignored while material seen as supportive is seized upon even though it might be of marginal relevance.

Two examples from the Sporting Shooters' Association paper clearly show this. The first is the often quoted Greenwood book on firearms control, 1972 publication, which related to the United Kingdom. In fact the copy that I have of this book was donated to the former Chief Secretary's Department by the Sporting Shooters' Association of Australia in 1976. Yet the association's paper dismisses in one sentence the substantial studies by Professor Harding on firearms and violence in Australian life in 1979, and Dr Paul Wilson's 1983 study on gun violence which particularly related to New South Wales.

The second example which has been made much of by the gun lobby is the 1983 amendments to the New Zealand firearms legislation. This has been brought to my attention many times by people who sincerely believe that the repeal of the New Zealand registration provisions must conclusively be the final nail in the coffin of any suggestion that any form of gun control in New South Wales could be supported on any grounds. Yet curiously no mention is then made of the New Zealand provisions which introduced a shooting licencing system which has been the main form of control operating in most Australian States in recent years and in New South Wales since 1973. No mention is made either of the New Zealand requirement that not only the applicant must be a fit and proper person but the licence could be denied if in the opinion of a commissioned police officer there was a chance that the firearms in the applicant's possession could pass into the hands of another person who would not be fit and proper. No equivalent provision to this is made in Australian gun control legislation.

Far more relevant to New South Wales and the New Zealand experience are the recent developments in other Australian States, notably Victoria and South Australia but these are not brought to my attention with the same determined frequency as the New Zealand changes to its registration requirements.

In conclusion I would like to emphasise again my belief that the new gun control laws in this State will achieve a viable balance between two widely differing perspectives. A balance between the government's responsibility to take all reasonable steps to minimise damage to life and property caused by firearms misuse, and the legitimate needs of individuals to own and use guns.

I would also like to anticipate two questions I am sure to be asked and the answers are as follows:

No, I have not yet made a final decision on the composition of the Firearms Advisory Council but it will be dealt with in the next few weeks, and no, I cannot give any assurances that the list of weapons prohibited under the *Firearms and Dangerous Weapons Act* will remain unchanged forever. There is however no proposal at present to include the .30 one calibre US Carbine self loading rifle in the list of prohibited weapons set out in Schedule 3 of the present regulations of the *Firearms and Dangerous Weapons Act*.

GUN LAW REFORM IN NEW SOUTH WALES: BETTER LATE THAN NEVER

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Introduction: From 1976 to the Shoot-out at Milperra

When the Wran Government took office in 1976, it inherited porous gun control laws. In this respect, certainly New South Wales was at that time little worse or better than any of the other States or Territories, except Western Australia. Nevertheless, with what seemed to be admirable insight and foresight, the Government soon started talking about reform of gun control laws.¹ Unfortunately, talk was all there was — despite the concern of police,² the Police Federation³ and the Australian Bank Employees' Union⁴ and despite also an underlying level of general societal support for change.⁵

The Father's Day Shoot-out at Milperra, in all its melodrama, set the machinery of government clanking into action in a way which almost a decade of equally serious but less dramatic gun violence had failed to do. Within a week, Mr Wran had announced that the State's gun laws would be made far more stringent. In addition, however, he announced that consorting laws would be strengthened⁶ — a classic case of confusing legislative objectives. As *The Sydney Morning Herald* was quick to point out:

Historically, the consorting laws were used by the police to get people they did not like without having to go to the bother of proof of wrongdoing ...

Draconian consorting laws are time-bombs: the intention may be to use them only on bikies but once in place they are available for use and misuse against demonstrators, protestors or any other group in the community.⁷

Fortunately, better counsel prevailed. After some further delay a legislative package⁸ principally concerned with gun laws was brought to Parliament in March. At the time of writing these laws have still not passed all legislative stages. The remainder of this paper is based on the assumption that they will do so in a form substantially unamended from the First Print of Draft Bill 50109-8804-11.

Before describing and commenting upon the main aspects of the new law, let us contrast the situation which would have confronted the Government had it taken action in 1976 or 1977 with that which confronts it in 1985.

First, there is the question of gun ownership patterns. As a consequence of such a long period when no records of long-gun ownership have been available, estimates vary widely. My own estimate is that in 1976 approximately 450,000 persons owned about 850,000 long-guns (other than air-guns). By 1984 there were,

1. Wilson, P., *Gun Violence: A Study of Firearms in Crime, Accidents and Suicide, with particular reference to the State of New South Wales*. Report for the Australian Bank Employees' Union. Brisbane, 1983. p.91 (1983).

2. Wilson, *id.* p.10. documents aspects of firearms incidents resulting in bravery awards between 1973 and 1980. There were in fact 425 such awards during the eight-year period.

Wilson also refers, at p.27. to the April 1977 resolution of the South Pacific Police Commissioners' Conference to recommend uniform gun control laws to State Governments.

3. Wilson, *id.* at 27 and 159. See also footnote 65. below.

4. Wilson, *passim*.

5. See the references contained in Harding, R., 'An Ounce of Prevention ... Gun Control and Public Health in Australia', (1983) 16 *A.N.Z. Journal of Criminology*, pp. 3-16. footnote 76.

6. *The Sydney Morning Herald*, 9 September 1984.

7. *id.*, 11 September 1984.

8. Cognate Bills introduced at the same time were the Security (Protection) Industry Bill 1985 and the Commercial Agents and Private Inquiry Agents (Amendment) Bill 1985.

I estimate, about 600,000 owners and 1,100,000 guns.⁹ There cannot, of course be anything sacrosanct about those figures; the nature of the situation is that there must be soft factors in the basis of one's estimate. However, one thing is beyond dispute. In 1985 substantially more citizens have a stake, or may think that they have a stake, in not disturbing existing gun ownership laws than was the case in 1976. Accordingly, the sheer size of the population sought to be reached by the new laws is such that full voluntary compliance may be somewhat more difficult to achieve. I will return to this point later, when I refer to the activities of the New South Wales gun lobby.

An associated matter is that of gun-crime data. The following Table shows the developing patterns of a decade.

TABLE 1
Types and Numbers of Crimes Committed with Firearms

	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984
Assault		303	295	273	302	345	394	—	333	406	—
Murder (including attempt)	33	68	47	61	47	63	83	—	58	61	—
Shoot with intent	28	49	30	28	24	36	32	—	9	3	—
Other offences (manslaughter, negligent wounding)	8	7	3	43	20	18	19	—	2	13	—
Robbery	362	342	323	491	801	554	836	1200	1405	1899	1936
TOTAL	—	769	698	896	1194	1026	1364	—	1807	2382	—

Sources: Wilson (1983).
NSW Bureau of Crime Statistics and Research.

These figures — fragmented because of the unsatisfactory way in which crucial crime data are still collected in Australia — show an increase of at least 200% in gun use in crime over the period during which the Government was screwing up its courage to reform gun control laws. Whilst it can be said that this may make the case for gun control easier to sustain, there are also other factors at work. Most notably, it seems clear that fear of violent crime (of any kind but including, obviously, gun crime) has become fixed strongly in society's perceptions. The following two Tables, taken from A.N.O.P. published data include this.¹⁰

9. See further Harding, R., *Firearms and Violence in Australian Life*, (University of Western Australia Press, Nedlands, W.A.), chapter 2, *passim* (1981), and Harding, *loc. cit.* at note 5 above, footnote 3.

Police estimates of the N.S.W. gun inventory are generally higher than these suggested figures; see for example the statement of Sgt. Bill Probert of the Firearms Registry that the figure could be "astronomical", *The Sydney Morning Herald*, 13 June 1984.

Wilson, *op. cit.* at note 1 above, estimates there may be between two and three million firearms in New South Wales: pp. 78-90.

10. See the *Adelaide Advertiser*, 26 February 1985.

TABLE 2
Problems given attention these days

	Feb. 1977	Feb. 1978	Feb. 1979	Mar. 1980	Feb. 1981	Feb. 1982	Mar. 1983	Feb. 1985
	per cent	per cent	per cent	per cent	per cent	per cent	per cent	per cent
Poverty	28	27	25	27	31	32	30	36
Crimes of violence	58	66	58	53	54	56	46	63
Education	40	39	42	37	45	39	36	38
Inflation	68	55	—	55	—	59	52	35
Breakup of the family unit	31	32	32	30	34	33	29	36
Unemployment	72	76	79	72	72	69	81	67
Industrial disputes	46	38	45	50	51	55	40	43
The road toll	45	46	48	33	41	49	31	42
Pollution and the environment+	33	36	33	32	33	30	27	32
Energy and oil	*	*	*	46	38	26	18	17
Defence++	*	*	25	38	28	23	21	30
Apathy	*	*	25	23	26	24	20	23

* Not asked about in the pools referred to.

+ Called "Polution" in the poll for 1977.

++ Called "Balance of payments/devaluations" in 1983.

TABLE 3
One problem most concerned about

	Feb. 1977	Feb. 1978	Feb. 1979	Mar. 1980	Feb. 1981	Feb. 1982	Mar. 1983	Feb. 1985
Poverty	3	2	2	3	4	4	4	6
Crimes of violence	18	26	14	13	13	15	10	22
Education	9	7	7	6	9	7	6	7
Inflation	24	12	11	12	13	16	11	4
Break up of the family unit	7	8	6	7	8	6	7	8
Unemployment	23	30	34	26	24	22	43	26
Industrial disputes	9	5	7	10	11	13	7	8
The road toll	6	5	5	3	4	6	3	5
Pollution and the environment	4	5	3	3	4	4	3	4
Energy and oil	*	*	*	7	3	1	1	1
Defence	*	*	2	6	2	1	2	4
Apathy	*	*	4	3	3	3	3	3

* Not asked about in the polls referred to.

This table again shows that over the last two years there has been a sharp increase in concern about violent crimes and a sharp decrease in concern about unemployment and inflation.

Such fears tend to be associated with a belief that to own a firearm for purposes of protection is an appropriate response to crime. This belief is quite misguided — counter-productive for society and often for the individual himself.¹¹

In my 1975 surveys I was able to identify owners for whom some aspect of protection may be an important motive for ownership,¹² viz:

11. Harding, *op. cit.* at note 9, above, pp. 76-9.

12. *id.*, Table 5.2.

TABLE 4

N.S.W.	24.6%
Victoria	17.3%
Queensland	32.5%
South Australia	24.4%
Western Australia	22.6%
Tasmania	6.9%
Australian total	23.1%

It should be noted that New South Wales is second only to Queensland in the above table. It is likely that the absolute number of persons falling into this category has increased since 1976 in approximate proportion to the increase in the number of gun owners. If so, the task of implementing the new law will be that much trickier; such laws depend for their functioning upon a substantial degree of voluntary compliance, and a group motivated in this way may be marginally more resistant to regulation.

In passing, it should be noted that a *Newsweek* poll arising out of public interest in the Goetz case (involving the shooting of four black youths in a New York subway by a white man who claimed that money was being demanded of him with menaces) showed an increase in reliance on the "defence-gun" over the last four years.¹³

TABLE 5

Q. Which of the following steps do you take or have you taken to deal with crime?

	March 1985	Jan. 1981
A. Keep a gun or other weapon	46%	31%
Try not to go out alone at night	54%	65%
Avoid certain areas even during the day	43%	60%
Carry a gun or other weapon	10%	—
Carry a defensive device such as Mace, a whistle or alarm	17%	—

However, there was a recognition that such a response might well simply make the streets more dangerous rather than safer, a view which was shared even by 56% of those who carry or have carried guns.

TABLE 6¹⁴

Q. If most people carried guns, do you think the streets would be safer or more dangerous?

A. Safer	11%	More dangerous	78%
No difference	3%	Don't know	8%

13. *Newsweek* (Bulletin edition), 12 March 1985, p.124.

14. *ibid.*

One can, I suppose, take some small solace from this self-recognition of irrationality. But far greater weight must be given to the fearful response itself, for it highlights a gun-control dilemma which makes law reform more difficult to achieve.¹⁵

To summarise to this point: the unwarranted delay, between 1976 and 1985, in tackling the question of gun control in New South Wales has made the task more difficult. There are more shooters, more guns and more violent crimes. The sheer logistics of revising present shooter's licence records,¹⁶ of bringing within the system a not inconsiderable number of unlicensed gun-owners¹⁷ and of compiling a register of all firearms would be demanding enough. Add to this the possibility of a greater degree of reluctance to comply, and it's fair to say that the Police Department will face a daunting task. But it should and must be done, albeit belatedly. There will be tangible public benefit from doing so.

Use of Guns in Homicide and Robbery

The principal areas of benefit will relate to homicide and robbery. As to homicide, the key arguments are as follows. First, in situations where the homicidal incident is not commenced with a single-minded intent to kill, "the homicide-rate is a function of the dangerousness of the weapon used multiplied by the number of serious attacks."¹⁸

Second, a firearm is, instrumentally, between three and five times more dangerous than the next most dangerous available weapon, i.e. a knife.¹⁹ It follows that the fewer the occasions upon which a firearm is available as a weapon in altercation or impulsively violent situations, the fewer fatalities there will be.

Attempts have been made to refute this analysis by the "substitute weapon" theory. The latter will not, in my view, hold water. One hesitates to set out the arguments and counter-arguments yet again; I have set them out previously in chapter 10 of *Firearms and Violence in Australian Life*, which is appended hereto (see pages 50-57). In essence, the flaws in the substitute-weapon theory come to this: that it erroneously seeks to define homicide situations in uni-causal terms and human motivation as one-dimensional.

For Australia, and particularly for New South Wales, one should highlight two further factors. First, the 1974 study, *Gun and Knife Attacks*, carried out by the Bureau of Crime Statistics and Research, provided factual support for the theory of the instrumental dangerousness of firearms.²⁰ Second, a more comprehensive study being conducted by the Bureau has confirmed that firearms are used disproportionately in domestic killings — precisely the sort of situation where either the killing is on an impulse (which may pass if not acted out) or where intention is ambivalent. Specifically, it appears that whereas the overall gun-homicide figures during the period 1968-81 were 34.6% of all killings, for domestic killings the figure was 38.4%. To put the matter in a different perspective, whereas 39.4% of all killings were domestic, 47.9% of gun killings where an offender was identified were domestic. In such cases 80.3% of the offenders were male and 56.7% of the victims

15. A story in the *Brisbane Courier-Mail*, 28 February 1985, describes the views of citizens that more force should be able lawfully to be used in defence of property.

16. A grandfather clause operates for the benefit of licensees who held a valid shooter's licence before 1 September 1984: Schedule 7, paras. 1 and 2.

17. The Police Department estimates that there are 250,000 licensed shooters in the State (*The Sydney Morning Herald*, 13 June 1984) is well short of my own estimate of 600,000 gun-owners.

18. Zimring, F. 'Is Gun Control Likely to Reduce Violent Killing?' (1967-68) 35 *University of Chicago Law Review* 721.724.

19. *id.*, at 734-5.

20. *Gun and Knife Attacks, Statistical Report 9*, N.S.W. Bureau of Crime Statistics and Research (1974).

were female.²¹ In principle, it is quite clear that the lesser the availability of household guns the fewer will be the occasions when household killings occur. A few years ago I endeavoured, without notable success, to suggest that gun control ought to be a feminist issue, because of the predominance of women as victims of such homicides. In addition, as I have shown elsewhere,²² children are disproportionately represented as victims of fatal accidents involving firearms. Let me here make the plea once again for feminists to become active in the gun control debate.

The second benefit of gun control will relate to patterns of armed robbery. When I first started working in this area, robbery generally, and armed robbery with the use of a firearm in particular, were for the most part "professional" i.e. committed by persons relatively skilled or experienced in robbery and for whom the objective was to acquire a large sum of money to be utilised for much the same sorts of purposes as those for which most of us utilise our salary cheques. Gun control measures would not really inhibit such persons — any more than they would inhibit professional hit-men. The cost of a suitable weapon was simply a business expense; and the means of obtaining it would be well known to such operators, even if it were illicit.

That pattern of robbery has changed in the United States quite fundamentally, and it is now changing here. Certainly, Australian patterns of street mugging are in no way comparable with those in the U.S.A.; but a similarity has developed in that raids on fixed targets are increasingly carried out by young amateurs or loners for whom the fruits of the robbery may not be so much an end in itself as a means of satisfying a short-term need, such as the purchase of drugs. In the perception of police and victims, such persons are much more dangerous to encounter than the "cool professional",²³ particularly when they possess a gun. Yet, hitherto, New South Wales gun laws have placed virtually no barriers in the way of such persons obtaining firearms.

Evidence for the changing nature of robbery incidents can be found in various quarters. Dr Paul Wilson, for example, quotes the estimate of previous Police Commissioner, Mr Cec Abbott, that drug addicts were committing 80% of armed robberies in New South Wales in early 1983.²³ He goes on to quote the views of the Bank Employees' Union as to the threat posed by these robbers:

Naturally, we have an overall concern about all robberies, but it's been our experience that the professional criminal is probably much cooler under stress, and uses a gun primarily to reinforce his threat. I believe that drug-affected people, and particularly jumpy amateurs, are far more potentially lethal than the professional. This guy gets into a branch very quickly and quietly, makes his holdup and gets out fast. Quite often, none of the customers even knows that a bank has been robbed until after the holdup man bolts and the commotion starts.²⁴

The foregoing evidence is somewhat impressionistic. More scientific is the report of the New South Wales Bureau of Crime Statistics and Research — *Drugs and Crime: A Survey of N.S.W. Prison Property Offenders*, 1984, by Ian Dobinson and Pat Ward. Defining drug "user" as persons taking barbiturates, cocaine, heroin, hypnotics and other opiates, the authors found that 44% of armed robbers in the prison population were drug users at the time of the offence,²⁵ and that there was a three times greater chance of users becoming involved in regular property

21. Wallace and Egger, forthcoming.

22. Harding, *op.cit.* at note 9 above, chapter 8.

23. Wilson, *op.cit.* at note 1 above, p.67.

24. *id.* at p.68.

25. Dobinson and Ward (1985), p.41.

crime than non-users.²⁶ Indeed, 78% of drug users gave property crime as their principal source of income.²⁷ If the estimates of users are to be believed, the income in question was a very considerable one, 75% of them requiring more than \$1000 a week to sustain their habit.²⁸ However, the authors, wisely question the accuracy of these figures²⁹ citing the work of Elliott³⁰ and Reuter.³¹ Nevertheless, it is obvious that the cost of maintaining such habits is so great as to ensure that users must substantially depend upon unlawfully-derived income.

The limitation of the foregoing work, for present purposes, is that it did not distinguish between armed robbery involving firearms and other armed robbery. It does, however, serve to document the presence on the armed robbery scene of a group of offenders who can quite sensibly be regarded as more unpredictable and less calculating than the "professional".³²

At this point, let me refer to a United States trend first noticed by Zimring in 1977, namely for the gun-robbery death-rate to be higher than would be fully explicable if a gun were actually fired only when the robber's own physical security or his ability to make a successful getaway were at risk. In other words, there was a suggestion in the data that use of the most deadly weapon might no longer be producing the desirable strategic effect that it was less likely to be used.³³ Whether this would be explicable in terms of incompetent or panicky victim-management, such as drug addicts might be expected to demonstrate, or for other reasons such as thrill-killing, one cannot say. Nor are data available in Australia to enable one to say whether such a trend may be developing here. It is enough, for present purposes, to note the possibility.

The point of the foregoing is to enable one to address the question whether appropriate gun control may beneficially affect patterns of robbery whilst armed with a firearm. Let me stress that the question is not whether all types of armed robbery would be reduced, but whether at some beneficial point some of it will be affected. It is my own view that appropriate gun control can affect this, and that these achievements in turn may provide, objectively, the basis upon which the increasing fear-level of Australian society may at least be held in check.

The Firearms and Dangerous Weapons (Amendment) Act, 1985

In the light of the foregoing, an objective of the new law should be to reduce the availability of firearms to those who may misuse them without putting unreasonable barriers in the way of those many citizens who have legitimate needs to own and use them. Legitimate users should be knowledgeable in the use of firearms so that they do not become a danger to themselves or, particularly, to others. Police authorities should, as far as is feasible, be placed in a position where the likelihood of encountering an armed offender when entering private premises can be assessed. And the community should be reassured that the Government which represents them views armed crime as particularly deleterious to the quality of social life and is

26. *id.* at p.72.

27. *id.* at p.68.

28. *id.* at p.51.

29. *id.* at p.103.

30. Elliott, I. D., 'Heroin Myths Revisited: The Stewart Report', (1983) 7 *Criminal Law Journal* 333.

31. Reuter, P., The (Continuing) Vitality of Mythical Numbers, paper presented at the Australian Institute of Criminology, March 1984.

32. Early indications are that the 1984/85 armed robbery rate in N.S.W. may fall from the 1983/84. If so, this may be for a variety of causes, such as "target-hardening", improved crime prevention techniques, better intelligence work by the Armed Hold-up Squad, etc. In the view of police authorities, however, a contributing factor is also the higher arrest figures for drug offences, thus removing from the pool of potential robbers some potential members: see the *Sun-Herald*, 13 January 1985; and *The Sydney Morning Herald*, 12 April 1985.

33. Zimring, F., 'Determinants of the Death-Rate from Robbery: A Detroit Time-Study', (1977) 4 *Journal of Legal Studies* 317, 327.

attempting to impose its views by all available means. How, then, does the new law measure up by these criteria?

(a) *Justification for shooter's licence; exclusion of high-risk applicants; inclusion of low-risk applicants.*

For the first time, a good cause criterion has been introduced with regard to long-guns, paralleling the position with regard to hand-guns. The key section, 22(5), now reads:

The Commissioner shall not grant an application for a shooter's licence in respect of any firearms unless he is satisfied that the applicant is of good character and repute, has good reason for holding the licence and can be trusted to have the firearms in his possession and to use and carry them without danger to the public safety or to the peace.³⁴

The new Act strengthens the exclusionary provisions relating to high risk applicants in two ways: first, by spelling out as disqualifying factors convictions for offences involving violence or narcotics or being under a recognisance to keep the peace³⁵ and by attempting to spell out other factors indicating social or personal instability:

After section 22(5), insert:-

(5A) Without limiting the generality of subsection (5), the Commissioner shall not grant an application for a shooter's licence if the Commissioner has reasonable cause to believe that the applicant may not personally exercise continuous and responsible control over the firearms to which the application relates by reason of —

- (a) the applicant's mode of living or domestic circumstances;
- (b) any previous attempt by the applicant to commit suicide or otherwise cause a self-inflicted injury; or
- (c) the applicant's intemperate habits or being of unsound mind, or on any other prescribed grounds.

It remains to be seen how the Police Department decides to apply these various new provisions and how the courts, when the inevitable challenges come, develop criteria on appeal. One would not expect access to a shooter's licence for a particular class of long-gun to be more difficult than access to a pistol licence. However, whilst that part of the Act relating to pistol licences³⁶ remains unamended, the Act is written in such a way that the law relating to long-guns appears in some respects to be more restrictive.

However, new section 22(5B) sets out categories of applicants who will be deemed as a matter of law to have a good reason for holding a shooter's licence in relation to the particular class of long-gun:

(5B) For the purposes of subsection (5), but without limiting the generality of that subsection, an applicant for a shooter's licence shall be deemed to have good reason for holding the shooter's licence if the Commissioner is satisfied

- (a) that the applicant is a rural property owner and the firearm will be used in connection with farming or grazing activities on the property;
- (b) that the applicant is a member of an approved firearms club, the members of which engage in the sport of target shooting with firearms of the class in respect of which the application is made; or
- (c) that the applicant is engaged in a lawful business which requires the use of the firearms or firearms of the class, in respect of which the application is made,

34. *Firearms and Dangerous Weapons Act*, s.22(5) as amended by Schedule 2, paras. 1(d), (e) and (f) of the 1985 Amending Act.

35. See new sections 22(4) (b1) and (b2).

36. Part II, Division 1.

or that the applicant is, under the regulations, deemed to have good reason for holding the licence.

All this, it seems to me, is a very sensible and balanced package. Thus, the occupational group which at present has the highest gun ownership rate, primary producers,³⁷ is rightly recognised as having a good reason for ownership. So too is the group for whom firearms use is a disciplined recreation and who also have the best safety-record amongst shooters — gun club members.³⁸ Finally, although one has some reservations about the carriage and use of firearms by private security personnel, at least the shooter's licence criteria are tied in with and reinforced by the provisions of the cognate Bills referred to earlier.³⁹

An opportunity does seem to have been missed, however. The Government has tried to co-opt important firearms-owning groups by removing provocative barriers against ownership of firearms and indeed facilitating their access to shooter's licences. It could, have gone further by positively co-opting them into the process of ongoing policy development. In both South Australia and Victoria, the device of a Firearms Consultative Committee has been adopted. They are not identical in function,⁴⁰ but they share the same philosophy of involving representatives of interested parties — police, shooters and lawyers — in the administration and policy development of the relevant Acts.

In South Australia, the system has been an unqualified success⁴¹ — at first a safety-valve and now a public manifestation of public acceptance of the aims of the Act. In Victoria, it is still a little early to tell. Reservations have been expressed, but they seem more to be organisational than endemic. It is my own view that the same model should have been adopted in New South Wales, and I would be interested to know why the original public commitment⁴² to do so has not been proceeded with.

Another undertaking which seems to have been abandoned is that of the two-week "cooling-off" period following a licence application.⁴³ One would have thought that such a delay would be the minimum necessary to enable the police to make what should become standard inquiries to ascertain whether the application does indeed have a good reason or is a high-risk applicant. Victoria, for its part, has allowed three weeks for such matters to be dealt with.⁴⁴ In addition, the interposition of a waiting period could serve to head off the kind of situation where persons buy a gun specifically to commit violence upon others or themselves.⁴⁵ In the light of these factors, it seems to me that the Government's first thought as to the desirability of a "cooling-off" period was preferable to its second thought.

(b) *Holding down the Gun Inventory*

The licensing provisions should discourage casual entry into the ranks of gun owners. So too should the imposition of obligations to register firearms. The effect will not be dramatic, but it will be tangible. In this regard let me refer to the

37. Harding, *op.cit.* at note 9 above, Tables 4.7 and 4.8. In N.S.W. 33.2% of all persons involved in primary industry were found to be gun owners.

38. *id.*, Table 8.7.

39. See note 8, above.

40. See *Firearms Act* (Victoria), ss.43, 43A, 54; *Firearms Act* (S.A.), ss.12, 14.

41. See Hunt, D., 'The *Firearms Act* 1977 of South Australia: Its Implementation and the Operation of the Firearms Consultative Committee', Proceedings of the First Australian National Conference on Firearms Laws and Use, Perth, 1981.

Subsequent conversations with S.A. Police authorities fortify the view expressed in the text. See also p.12, below.

42. See per Mr Peter Anderson, reported in the *Canberra Times*, 29 September 1984.

43. See per Mr N. Wran, reported in the *Canberra Times*, 9 September 1984.

44. *Firearms Act* (Victoria) s.22AA(2A).

45. N.S.W. Bureau of Crime Statistics and Research, *International Shootings, Statistical Report 2, Series 2*, pp.5.9 (1975).

experience of South Australia and Victoria by way of illustration.

Before 1977 the South Australian gun laws were, broadly speaking, similar to the pre-1985 New South Wales gun laws. The 1977 Act, brought into operation on 1 January 1980, is broadly similar in licensing and registration terms to the 1985 N.S.W. Act. The initial licensing/registration drive in South Australia produced, as at 30 June 1980, the following figures, which can be compared with those of 30 June 1984.

TABLE 7

	June 1980	June 1984	% Increase
<i>Licences</i>	106,137	121,265	+14.3%
'A' Class, minus airguns (i.e. .22 rim-fire)	107,568	116,798	+8.6%
'B' Class (shotguns)	58,999	67,717	+14.8%
'C' Class (handguns)	10,287	12,574	+22.2%
'D' Class (larger calibre or centre-fire rifles)	40,008	49,202	+23.0%
Others	—	707	—
Totals	216,862	246,998	+13.9%

These South Australian figures can be regarded as most satisfactory. Whilst the increase in both licensed shooters (14.3%) and firearms (13.9%) is running ahead of population increase (3.2%) during the four-year period, it should be noted, first, that there was probably a small element of picking up a lag of shooters and guns which should have come to notice in 1980, and second, that the increase is less than the overall rate of increase in Australia.⁴⁶ On the other hand, the shooting community as a whole has obviously not been unduly inhibited in its access to firearms. Any individual shooters aggrieved by a decision of the Registrar have had access to the Firearms Consultative Committee; and the fact that 152 such referrals in 1983/84 led to only three further court appeals must also be considered highly satisfactory.

The Victorian experience is as yet too brief for firm conclusions to be drawn. However, one factor which has been observed in that State is of great interest in the present context. It is this: that whereas retail trade in firearms seems to have continued at much the same rate, the wholesale import trade is noticeably down.⁴⁷ The nature of the wholesale import trade is, of course, national rather than State. The national figures in fact support the Victorian trends.

TABLE 8
Firearms Import Figures, 1979-84

Year	Rifles	Shotguns	Total Long-guns	Handguns
1979/80	86,449	40,823	127,272	6,398
1980/81	85,930	42,172	128,110	6,772
1981/82	88,075	33,094	121,169	5,972
1982/83	c.56,000*	21,106	77,106	N/A
1983/84	43,103	19,131	62,234	N/A
1984/85 — first six months only	29,015	9,465	38,480	N/A

* A change of categorisation occurred in 1982/83 and it is not possible to elicit a precise figure from the available data.

These figures are quite dramatic. They are not, as far as I am aware, explicable in terms of the sudden growth of a major domestic firearms-manufacturing

46. See Harding, *loc.cit.* at note 5 above, pp.3-4.

47. Conversation with Chief Inspector Brian Fennessy, Registrar of Firearms for Victoria.

industry. What they seem to indicate is that the unused part of the national firearms inventory is starting to be re-circulated through the retail trade. Since 1980 the gun laws of Australia have changed markedly. Western Australia had already had a licensing/registration regime for many years before then; it was joined in 1980 by South Australia, in the same year by the Northern Territory, and early in 1983 (though taking effect in 1984) by Victoria. This has, one can surmise, brought out of their cupboards some of the firearms which had been owned quite unthinkingly and for no particular reason. If this surmise is correct, this process should continue and be accelerated with the enactment of the New South Wales law. There will be a slowing down in the rate of increase of the total Australian gun inventory, as well as the N.S.W. component of that inventory, and a shift in the categories of persons owning firearms as well as their motives for doing so.

Support for this analysis can be found in at least two places. First, my own earlier work certainly raised the possibility that at least 25% of owners are not, in any real sense, shooters — for they owned no ammunition at all.⁴⁸

In Canada, Stenning and Moyer asked a more pertinent question of respondents: "Have you fired your firearm at any time during the last twelve months?" Those who answered in the negative they characterised as "non-users". Fifty percent of respondents fell into this category.⁴⁹ Canadian gun ownership patterns are sufficiently similar to Australian ones for this finding to be of some interest in the present context.

It is my view, then, that the approach to gun control laws found in the New South Wales Act will broadly contribute to a slowing down in the growth of the Australian gun inventory and the number of shooters in the community. This is to be welcomed. However, I should add this cautionary word — that sufficient resources *must* be made available to the Police Department, as licensing/registration authorities, to do the job effectively and the police, in turn, must develop appropriate procedures to enable them to do so without undue bureaucratic frustration for citizens.⁵⁰

Two other points should be made in the context of inventory-control. The first relates to the mail order trade. The New South Wales law endeavours to inhibit or eliminate the flow of mail order firms into the State by new section 41.⁵¹ Without

48. Harding, *op.cit.* at note 9 above, Table 7.5.

49. Stenning, P., and Moyer, S., *Firearms Ownership and Use in Canada: A Report of Survey Findings 1976*, pp.94-108 (Centre of Criminology publication, University of Toronto, 1981).

50. See Dixon, *Review of Firearm Legislation of Western Australia*, pp.80-6 (W.A. Government Printer, 1981).

51. Section 41, as amended, is as follows:

Use of mail for forwarding firearms.

41.(1) In this section, "firearm" does not include a spear gun.

(2) A person shall not forward a firearm or a spare barrel to another person by mail unless —

(a) the address to which the firearm or spare barrel is forwarded is outside New South Wales;

(b) the firearm or spare barrel is forwarded by registered mail; and

(c) the other person would not, by reason of —

(i) receiving the firearm or spare barrel; or

(ii) being in possession of the firearm or spare barrel, at the place to which it is forwarded, be guilty of any crime or other offence under any law which applies at that place,

or the person is authorised to do so by the regulations.

(3) A person shall not, unless authorised so to do by or under the regulations, request another person, whether the other person is situated within or outside New South Wales when the request is made, to forward a firearm or a spare barrel by mail to an address within New South Wales, whether or not the request is made in writing or in connection with the purchase by the person of the firearm or spare barrel.

(4) A person shall be deemed to have made a request referred to in subsection (3) if the person, not being authorised so to do by or under the regulations, accepts an offer made by another person situated within or outside New South Wales to forward a firearm or a spare barrel by mail to an address within New South Wales.

Penalty: In the case of a firearm, being a pistol, \$2,000 or imprisonment for 2 years, or both; in the case of any other firearm or a spare barrel, \$500 or imprisonment for 6 months, or both.

going into minute details, I would say that there is a real question under s.109 of the Constitution as to the validity of all or part of that section. But regardless of whether my view is correct, the real point of the N.S.W. initiative is that it highlights federal inaction in this area. The mail order business for firearms is, if advertisements in shooters' journals are an indication, substantial. It seems most peculiar that the considered legislative policies of any of the States can thus be undermined by the mail-order business whilst the Commonwealth merely stands by. At present the only relevant provision contained in the Postal Services Regulations is No. 48A: "An article that contains or may contain anything that is or could be explosive, dangerous or deleterious may be dealt with as the Commission directs." Whilst this may be applicable to particular firearms or ammunition, it places no general limits on the mail-order firearms trade. The Commonwealth should give urgent consideration either to banning such sales altogether or subjecting them to conditions which ensure the law of the State of the recipient is positively complied with.

The second point I would make relates to air-guns. The 1985 Act has brought them within the licensing/registration provisions. The available evidence does not suggest that such weapons are a significant problem in terms of major crime, accident or suicide. It may well be that inclusion of air-guns serves only, therefore, to increase the administrative burden of the new scheme without countervailing benefit.

(c) *Educating Shooters*

In my earlier work, I documented how poorly trained is the general body of Australian gun owners: only 46% were adequately trained.⁵² The training I refer to is not that of skill as a marksman; it refers to the ability to know what *not* to do with a firearm if one is not to be a danger to oneself and to others. Poor training does, in fact, lead through to involvement in accidents, 90% of which are due to shooter incompetence of one kind or another.⁵³ Proper training, whether under the aegis of State authorities or by responsible gun clubs,⁵⁴ can reduce the accident rate.

The New South Wales Act stops short of requiring practical training as a prerequisite to the granting of a shooter's licence. Obviously, it is felt — as in those other States which have given consideration to this possibility — that the necessary resources are not available. However, provision has at least been made for an examination relating to the applicant's knowledge of safety procedures:

73A. Without limiting the generality of any other provision of this Act relating to the granting of applications for licences or permits, a licence or permit of a prescribed class shall not be granted or issued under this Act or the regulations unless the applicant for the licence or permit has completed to the satisfaction of a prescribed member of the police force a written or an oral test relating to the applicant's knowledge of safety procedures concerned in the use, carrying or possession, as the case may require, of the firearm or of firearms of the class in respect of which the application is made.

If, as seems likely, a written test is adopted, it is to be hoped that it does not become a mere formality. This can happen if, for example, a multiple-choice format is used and some of the "choices" are derisory.⁵⁵ A preferable mode would be that of asking open-ended questions. At the very least, there should be several alternative tests so that the unsuccessful applicant may have his understanding, rather than his capacity to recall previous mistakes, tested the second time.⁵⁶

52. Harding, *op.cit* at note 9 above, Table 7.1.

53. *id.*, chapter 8, particularly at p.102.

54. *id.* at p.108.

55. See, for example, the previous W.A. questionnaire, set out *id.*, at pp.95-6.

56. This, it seems, is the practice in New Zealand.

(d) *Registration*

If licensing is to be effective, there must also be gun registration. Otherwise, guns could be disposed of privately to persons excluded from holding a licence, and no one would be any the wiser until it was too late. Careful judgments about individual suitability for a shooter's licence and the protection of the public interest could easily be undermined. In addition, legitimate police operational needs to know whether firearms are likely to be present at a location to which they have been called are best met by a registration system.⁵⁷

The main features of the registration scheme are as follows. First, registration of a particular firearm owned by a licensed shooter will be one-off, for as long as he remains licensed and the gun remains in his ownership. The annual registration requirement which characterises the Western Australia scheme has thus not been adopted.

The trouble with one-off registration is that the escape routes from the registry are potentially so numerous. Guns come into people's ownership or possession in many ways: by sale and purchase involving a dealer, by private sale and purchase, by gift, by bequest, as war souvenirs, by way of loan, and so on. In New South Wales, at the time of my 1975 survey, the modes of acquisition of firearms were as follows.

TABLE 9

Purchased from dealer	54.6%
Purchased privately	18.1%
Gift	16.1%
Bequest	5.5%
War souvenir	0.8%
Other	4.9%

A problem with the New South Wales law is that it focuses principally upon sale and purchase as a mode of disposition or acquisition. It is when a registered owner sells a gun (and also if he loses it or it is stolen) that he must notify the police;⁵⁸ and it is when a purchaser buys a gun that he, in turn, must notify the police.⁵⁹ Thus, one occasion in four upon which guns change ownership will not be covered by notification duties. Even if compliance with the registration system is complete and perfect, the system seems arguably to contain within itself the seeds of its own collapse.⁶⁰

Another possible problem concerns the previously mentioned matter of air-guns. Their inclusion will add some clutter to the Register; moreover, the unique registration number requirement⁶¹ will not, I understand, sit easily with the inclusion of air-guns.

(e) *Firearms Offences*

Canada, faced with growing concern about crime involving use of firearms, included in its 1977 reform package a provision for additional mandatory minimum sentences of imprisonment for the use of such weapons:

83.(1) Every one who uses a firearm

- (a) while committing or attempting to commit an indictable offence, or
- (b) during his flight after committing or attempting to commit an indictable offence,

57. See *Firearms and Dangerous Weapons Act* (N.S.W.), ss.77(3) and 77(4), where this policy is recognised. The South Australian experience has apparently been constructive in this regard: Harding, loc.cit. at note 5 above, footnote 65.

58. s.40B(1) (b)

59. s.40B(3)

60. Contrast *Firearms Act* (Victoria), s.22AA; *Firearms Act* (S.A.), ss.22-6.

61. *Firearms and Dangerous Weapons Act* (N.S.W.), ss.23A(1) (c), 73.

whether or not he causes or means to cause bodily harm to any person as a result thereof, is guilty of an indictable offence and is liable to imprisonment (c) in the case of a first offence under this subsection, except as provided in paragraph (d), for not more than fourteen years and not less than one year; and

(d) in the case of a second or subsequent offence under this subsection, or in the case of a first such offence committed by a person who, prior to the coming into force of this subsection, was convicted of an indictable offence, in the course of which or during his flight after the commission or attempted commission of which he used a firearm, for not more than fourteen years and not less than three years.

(2) A sentence imposed on a person for an offence under subsection (1) shall be served consecutively to any other punishment imposed on him for an offence arising out of the same event or series of events and to any other sentence to which he is subject at the time the sentence is imposed on him for an offence under subsection (1). 1976-77, c.53, s.3 [Canadian Criminal Code.]

At first, there seemed to have been some prosecutorial reluctance to charge under this section and some judicial resistance to the supposed loss of sentencing discretion.⁶² Later evaluation suggests that the section is now being properly utilised, and that the impact has been to lengthen the terms of imprisonment of firearm-robbers both absolutely and relative to other robbers.⁶³ What has not been evaluated is the deterrent value of so doing. But it can hardly be doubted that the Canadian Government has made an important statement about comparative values in the fight against violent crime.

Nothing comparable has been attempted in the present New South Wales amendments, nor indeed in recent changes to firearms laws in other Australian jurisdictions. The possibility should be kept under review, however.

(f) *Summary*

The New South Wales scheme, if it is implemented with sufficient manpower, adequate hardware and appropriate procedures, could bring about the realisation of the main objectives of the Act. However, there seem to be several hiatuses and some unnecessary intrusions. It is a complex Act (which would benefit, incidentally, from being consolidated into a Reprint) which is certain to need further amendment and refinement as the implications of detailed provisions become apparent. The Wran Government, having denied gun control laws parliamentary time for so long, will ironically find that they have become quite a regular item on the legislative agenda, at least during the early years of the new scheme.

Reaction to the New Laws

The press reaction has been universally favourable, epitomised perhaps by the *Newcastle Herald*:

Many gun-owners are objecting to the changes, for the new laws will cost them time and money. Gun-sellers are protesting even more strongly, for some of them are bound to go out of business when the changes begin to bite. The multi-national companies that control much of the ammunition trade are unhappy. Yet the new laws make sense.

The opposition has concentrated on the undeniable fact that the laws will not

62. Scarff, E., *et alia*, *Evaluation of the Canadian Gun Control Legislation: First Progress Report*, pp.138-141 (1981, Solicitor-General, Canada).

63. Scarff, E., *Evaluation of the Canadian Gun Control Legislation: Final Report, Executive Summary*, pp.9-10 (1983, Solicitor-General, Canada).

deny guns to criminals. But that is hardly the point. What matters is that the laws will tend to keep guns out of irresponsible, anti-social hands. Perforated road-safety signs throughout the country show how widespread the irresponsibility is. Farmers know it too, through stock losses. And the toll of wildlife at the hands of the gun-happy is appalling.

For decades guns have been used in more than 30% of the 100 or so illegal killings that occur in New South Wales each year. Last year the percentage was boosted by Milperra and a couple of family massacres. Guns are used particularly often in family killings, and in many of these cases it is reasonable to believe that if no gun had been on hand when a quarrel flared, nobody would have died. For that reason alone, and there are many others, the new laws are welcome, late though they are.⁶⁴

The N.S.W. Police Association was less happy, considering that shooter's licences would still be too readily available. However, the suggestion that all applicants should go through the court system⁶⁵ would inevitably lead to widespread non-compliance because of the delay and frustration which would be generated.

At the other end of the spectrum has been the reaction of the gun lobby, co-ordinated through the Firearms Advisory Council. In February, the Council called a meeting at the Penrith Leagues' Club to discuss the changes; some 3000 to 3500 shooters turned up, most of them to voice their concern. Evidently, there has been talk amongst shooters of a mass refusal to register guns, so as to sabotage the basic premise of the legislation. However, the national legislation officer of the Sporting Shooters' Association of N.S.W., Mr Robert Mitton, has publicly stated that his Association does not support such an approach, and that as a reasonable group they will be urging compliance.⁶⁶

The Sporting Shooters' Association has longer-term objectives, however, namely the overthrow of the Wran Government. Mr Mitton is reported⁶⁷ to have said:

There are 500,000 shooters in New South Wales who, properly organised, can vote him out at the next election.

Six city and four rural seats have been identified as vulnerable to an anti-Labor, pro-gun swing, and these will be targeted at the election. Television commercials aimed specifically at shooters will be amongst the techniques used.⁶⁸

The N.S.W. Government should not be disturbed by this kind of talk. In Victoria, during the 1982 election campaign, the Gun Lobby devoted a great deal of energy and large sums of money to campaigning against three A.L.P. candidates particularly associated with gun control. These were in the seats of Bendigo, Bentleigh and Ascot Vale. In each case, no discernible impact whatsoever was made; the swing to Labor was of the same order as that generally prevailing in that kind of seat.

This should not be the occasion for any surprise. The fact is that there is a widespread general support in the community for reasonable gun control laws of the sort now found in New South Wales.⁶⁹ The socio-economic profile of gun-owners indicates that they are very much part of the mainstream of Australian society,⁷⁰ unlikely to be swayed by arguments which are extreme in tone and

64. 26 February 1985.

65. See per Mr J. Greaves, President of the N.S.W. Police Association, *Canberra Times*, 10 September 1984.

66. *The Sydney Morning Herald*, 12 March 1985.

67. *ibid.*

68. *ibid.*

69. See note 5, above.

70. Harding, *op. cit.* at note 9 above, p.165.

unwilling to be manipulated on a single issue. Indeed, the impressionistic evidence is that reasonable gun laws sensitively administered quickly gain widespread acceptance amongst shooters. This was the case in South Australia where, before 1977, the gun lobby made the same sorts of noises as were made in Victoria in 1982 and in New South Wales in 1984/5.

Mention of South Australia leads one to refer to the attitude of the N.S.W. Opposition. In South Australia, reform of the law was bi-partisan in that an Act passed by a Labor Government was given the flesh of Regulations by a Liberal Government, proclaimed and first implemented by that Government, and consolidated in the community by another Labor Government. It is a matter of some regret that the present Liberal Opposition has chosen to oppose the new laws. In doing so, it has fuelled the rash and divisive talk about voting out the Wran Government on this single issue. One's suspicion must be that this is an Act of political opportunism rather than one of deeply-felt commitment, for previous Liberal parties in New South Wales have acknowledged the need for gun control.⁷¹ In truth, in Australia in the nineteen-eighties gun control should not be a party-political issue, with all the negative connotations of that phrase, but a matter of common sense in finding the common ground.

The Likely Impact of the New Laws Upon Victimisation

Will the new laws make the impact I have suggested? We shall have to wait and see. But let me make it quite clear that those who would assert that gun laws are futile unless they *eliminate* gun-related crime are setting up a straw man. This has never been the position of those of us who see social benefit in gun control. What we look for are marginal effects — a reduction in domestic killings, a slowing-down in the rate of gun-robberies, a gradual easing of fear — judged over a moderate period of time.

The South Australian police force believes it has achieved some of these marginal effects; Victoria is optimistic. In Canada, the extremely thorough evaluation of the 1977 laws quietly and firmly gives ground for optimism, particularly in relation to robbery where sample sizes were adequate to validate conclusions:

Of all the crimes examined, firearms were used most frequently in robberies. National data on robbery from 1977 to 1981 indicated that the total number of robberies with firearms increased. However, the increase in firearm robberies was less than for total robberies. While the total number of robberies rose by about 35 per cent, robbery with firearms increased only by about 20 per cent, whereas the use of other offensive weapons in robbery increased by about 63 per cent. When expressed as a percentage of total robberies, firearms were used in 38.5 per cent of robberies in 1977, and 34.4 per cent in 1981.

The robbery data from the four city jurisdictions [Vancouver, Calgary, Toronto and Ottawa] showed a decrease in the relative use of firearms in each city except Ottawa. The percentage of robberies committed with firearms dropped in Vancouver from 20 per cent in the three years prior to the legislation to 13 per cent in the four years following. Comparing the four year period before and after the 1978 firearms legislation in Toronto, the percentage of robberies involving firearms dropped from 23 per cent to 19 per cent. In Calgary, notwithstanding an increase in the absolute number of robberies involving firearms in the period following the legislation, the

71. See, e.g., per the then Chief Secretary, Mr Eric Willis, in 1970, cited in *Newcastle Herald*, 26 February 1985.

percentage of robberies involving firearms dropped slightly from 45 per cent in 1977 to 42 per cent in the four years 1978 to 1981.

...
 In summary, notwithstanding anomalies such as those found for robbery in Ottawa, there was a modest decrease in the post-legislation period of the proportionate use of firearms in the criminal incidents is examined. Furthermore, because any decrease in the proportion of a crime committed with firearms indicates a corresponding increase in the proportion committed by other means, the data generally show that the relative use of other weapons in crime increased after the legislation. Data from Vancouver and Toronto on the use of knives in particular also show that there has been an increase in the proportions of homicides and attempted murders (but generally not for the other crime categories) committed with knives since the legislation. In most cases, the findings suggest that the greater controls over firearms have resulted in a displacement effect; that is, an increasing proportion of crime is being committed with other weapons.⁷²

Those "other weapons", it should be recalled are less inherently deadly than firearms.

In addition, laws of this kind will have a desirable impact upon patterns of accidents and suicide.

Future Issues and Problems

In 1982 I argued that gun control strategies should be dealt with in co-ordination by the Governments of the States, the Territories and the Commonwealth:

The carefully formulated policy of one Government unit can all too easily be undermined by the incongruous policy of another. Interstate movements of people and their possessions, including their guns, are commonplace matters. Such movements are unsupervisable and in any case should not be supervised. Yet firearms use and possible abuse, with the attendant creation of a fear-violence spiral, amount to a national public health problem. This is not an area of law-making where the expression of supposed local interest can ever be regarded as outweighing the countervailing detriment of inconsistent legislative policies.

In the United States, where the federal government has failed to set sensible minimum standards, co-ordination has become an impossibility. In Canada — where the prevention programme launched in 1977 seems to be working reasonably well — there is a uniform law-making power in this area. If the political will exists, Australia, with nine relevant governmental units, can easily co-ordinate its laws even if it is unrealistic to look for uniformity. This whole matter has, for several years now, been a regular agenda item with the Australian Police Ministers' Council, so far to no avail.⁷³

At the State level, the fly in the ointment is of course Queensland. Tasmania also is non-conforming to the trend which has otherwise spread across the mainland, but because of its island location and its small population is less important in this regard.

The Commonwealth Government cannot be left out of calculations. I have already referred to its passivity in the area of mail-order delivery of firearms. In addition, one must refer to the customs power. At present, Customs Department procedures look primarily to the requirements of the law of the State of port of entry when deciding whether to permit the commercial or private importation of

72. Scarff. *op. cit.* at note 63 above. pp.3-4.

73. Harding. *loc. cit.* at note 5 above. p.11.

any particular firearm or class of firearms. If the local authorities raise no objection, it is unlikely that Customs will do so. This attitude is understandable, for obviously there are much higher priorities in the weapons area — as the recent Queensland and South Australia gun-running allegations graphically show.⁷⁴ Nevertheless, Customs could perhaps be slightly more involved and assertive with regard to conventional private and commercial importations — for example, by refining the national safety standard which at present lacks real substance. It is a small point, but worth making because the nature of the firearms problem is such that it should ideally be treated nationally and in co-ordination.

Finally, let me refer to the problem of data. Coming back to this area after two and a half years, I find myself cobbling together data collected in different ways or for different purposes, much as I did in 1975-80 and again in 1982. Nothing has changed. At the very least, Australia must have comprehensive figures relating to gun use in crime; they must be systematically collected and collated and readily accessible. If police forces, as the bodies primarily responsible for crime data, cannot or will not do this in a co-ordinated national way, then some other body must be asked to do so. At the present time it is simply not possible to carry out in Australia the kind of monitoring and evaluation of the impact of a new law which was done in Canada in relation to the 1977 gun control laws. Obviously the optimum follow-up to the passage of the N.S.W. *Firearms and Dangerous Weapons (Amendment) Act* 1985 would be systematic monitoring of its effects. If that were done, some of the divisions would, I believe, go away.

74. See the *Brisbane Telegraph*, 6 March 1985; *The Adelaide Advertiser*, 11 February 1985; *The Melbourne Age*, 11 February 1985; and follow-up stories in those papers.

Extract from **FIREARMS AND VIOLENCE IN AUSTRALIAN LIFE.**
(University of Western Australia Press, Nedlands, W.A.) 1981.

10

THE USE OF FIREARMS IN HOMICIDE AND SERIOUS ASSAULT

Violent crime, the personal tragedies it brings about and the social alarm it engenders, is quite properly a matter of profound community concern. Human passions and vices obviously exist irrespective of the degree of firearms availability. But a question which is often asked — one which is at the core of the 'gun control debate', particularly in the United States — is whether or not the availability of firearms exacerbates the effects of discord, bringing about some deaths where there might otherwise only have been serious injuries and some serious injuries where there might otherwise only have been trivial ones. This question is paralleled with motor vehicles: 'Speed causes accidents', say some; 'No, bad driving causes accidents', say others. Yet it can hardly be doubted that bad driving is generally more dangerous at high than low speed.

In the context of gun use, there are strong protagonists for both approaches. As early as 1958 Wolfgang argued, on the basis of his study of criminal homicide in Philadelphia, that

few homicides due to shootings could be avoided merely if a firearm were not immediately present ... The offender would select some other weapon to achieve the same destructive goal.¹

The one exception he would admit is where the long-range capacity of the weapon was essential to the perpetration of the particular crime, as in the shooting of policemen. Greenwood, analysing English experience, gave general support to Wolfgang's approach:

the presence or absence of a firearm, or of any other type of weapon, is of far less importance to the outcome than the passion generated in the attacker. The man who has lost control will cause serious injuries in many cases, quite irrespective of the weapon he uses and regardless of the certainty of detection and punishment. Where the anger of passion is less, the attack is frequently more a demonstration of anger than an assault carried to a conclusion.²

This sort of approach represents the wrongdoer as single-minded, clear in his objectives and determined to carry them out. It epitomizes a rather simplistic and one-dimensional notion of human behaviour, one which would fit a hit-man or professional criminal rather more suitably than the bulk of those people who resort to violence against others.

Zimring was the first writer to attempt to submit Wolfgang's approach to scientific evaluation. In this seminal article, 'Is Gun Control Likely to Reduce Violent Killing?'³ published in 1968, he analysed Chicago Police Department records relating to homicides and serious assaults for the years 1965, 1966 and 1967. His arguments are so important that they require full exposition.

The first question he sought to explore was that of intention. Clearly, in a fundamental sense we can never *know* what another man's intention was at any given moment, what was actually going on within his head and controlling his psyche. Even a finding of a jury at a criminal trial does not really establish this; it merely settles it for purposes of the administration of the criminal justice system.

1. Wolfgang *Patterns of Criminal Homicide* (1958), pp. 82-3.

2. Greenwood, *Firearms Control* (1972), p.132.

3. (1967-8) 35 *University of Chicago Law Review* 721.

The best one can ever do, then is to surmise; but the circumstances of the attack itself can do something to make our surmises realistic.

One such circumstance is the relationship between the parties involved. Zimring found, from 554 Chicago homicides of 1967, that three-quarters of the victims had a tangible pre-existing relationship with their killer (see *Table 10.1*).

The immediate trigger for the lethal attack was also ascertained; overwhelmingly, an altercation of some kind was the occasion, which is a far cry from the cool, single-minded assessment of whether or not to kill which Wolfgang and Greenwood would attribute to offenders (see *Table 10.2*).

Liquor is a sure lubricant for altercations; Zimring found that in 54 per cent of homicides one or both parties had been drinking just prior to the incident. This fortifies his general comment, regarding homicides arising out of altercations, that they are 'precisely the situations where the intention is apt to be ambiguous rather than single-minded.'⁴ He continues: 'It may be inferred ... that many homicides are related to variable states of intention, and that a significant proportion do not result from an attack committed with a single-minded intention to kill'.⁵ Of course, his data do not, cannot, *prove* this; but they raise an inference far more reasonable, far more consonant with commonsense and common observation than the contrary one.

Table 10.1
RELATIONSHIP BETWEEN HOMICIDE VICTIM
AND ATTACKER, CHICAGO 1967

	%
Friends, acquaintances	41
Spouse, lover	20
Other family	7
Neighbours	3
Business	3
No relationship	22
Undetermined	4
	100%

Table 10.2
NOTICE FOR HOMICIDAL ATTACKS
CHICAGO 1967

Altercations		82%
General domestic	17%	
Money	9	
Liquor	7	
Sex	2	
Triangle	6	
Racial	1	
Children	2	
Other	38	
Teenage gang disputes		3%
Robbery		12%
Strongarm	3	
Armed	9	
Other motive		3%
		100%

4. *Ibid.*, p. 723.

5. *Ibid.*, p. 724.

The question therefore arises: are guns more dangerous than alternative available weapons? If they are, to reduce their availability would potentially be to reduce the homicide rate, 'which is a function of the dangerousness of the weapon used multiplied by the number of serious attack'.⁶ The criterion of 'dangerousness' in this context is not that of great capacity to mount an attack at all (for example, because of the range of the weapon); it is one of whether consummated attacks with weapon A are more likely to bring about death than consummated attacks with weapon B.

Accordingly, Zimring breaks down 1967 Chicago homicides into deaths by weapon:

Table 10.3
DEATHS BY WEAPON, CHICAGO 1967

	%
Guns	52
Knives	30
Other weapons	8
No weapon	10

Anticipating the argument that the choice of a gun may indicate something about the intended nature of the attack which is about to be carried out, Zimring now examines the motive of the homicide, by weapon, and the race and sex of the offender, also by weapon. In each case the patterns are closely similar; Zimring concludes that the data support the view that similarly motivated attackers used guns and knives in comparable homicide situations. Most notably, 80 per cent of gun killings and 80 per cent of knife killings occurred in altercations; and guns were used by 60 per cent of Negro male killers and 59 per cent of white male killers.

The focus now switches to the most common murder weapons, guns and knives. Zimring tabulates the 1965-67 figures for fatal and non-fatal attacks reported to the police. In so doing, he notes the possibility that there may be some under-reporting of serious but non-fatal knife attacks, more so probably than of serious but non-fatal gun attacks.

Table 10.4
FATALITY REPORTS FROM GUN AND KNIFE ATTACKS
ALL SERIOUS REPORTED ATTACKS AND HOMICIDES
CHICAGO 1965-67

	Non-fatal	Fatal	% Fatal
1965			
Knives	5285	104	1.9
Guns	1298	195	13.1
1966			
Knives	5230	152	2.8
Guns	1873	265	12.4
1967			
Knives	5612	135	2.4
Guns	2412	317	11.6
TOTAL			
Knives	16127	391	2.4
Guns	5583	777	12.2

6. Ibid.

It can readily be seen that gun attacks *prima facie* are five times more dangerous (i.e. 12.2:2.4) than knife attacks.

It could still, perhaps, be argued that gun attacks may be more in earnest than knife attacks, so that one is not comparing like with like. One is thrust once more into the realm of subjectivity, dealing with material which in the final analysis is unprovable one way or the other. However, Zimring tries to meet this argument by inference from the objective data. These relate to the location of the most serious wound and whether the attack caused single or multiple wounds. Characterizing attacks to the chest, abdomen, head, back and shoulders as serious, Zimring shows that more non-fatal knife attacks than non-fatal gun attacks fell into this category: 70 per cent as against 56 per cent. In addition, whilst 46 per cent of non-fatal knife attacks to serious areas were multiple, only 16 per cent of such gun attacks fell into this category. Leaning against any temptation to exaggerate the seriousness of knife attacks, Zimring further refines his data by characterizing single slash wounds (as opposed to single puncture wounds) to serious areas as non-serious attacks. The data nevertheless support three propositions:

- (i) that not all gun attacks can per se be considered attacks in earnest, carried out with homicidal intent;
- (ii) that a substantial proportion of knife attacks reported to the police do appear to be attacks in earnest;
- (iii) that the percentages of attacks in earnest with guns and with knives are almost identical.

His conclusions are restrained but cogent:

If it is assumed that only those wounds inflicted by knives in serious area locations that resulted in police-reported puncture wounds can be presumptively considered attacks in earnest, but that every gunshot attack reported is an attack in earnest ..., the death-rate per 100 attacks in earnest by guns would still be two and one-half times that of the death rate per 100 attacks in earnest by knives.

Certainly, more reasonable use of these data would involve a substantially smaller number of asymmetrical assumptions. If the comparison is between knife puncture wounds in serious areas and gun wounds in serious areas, guns exhibit a death rate five times greater than knives.⁷

Because of the gun-control thrust of Zimring's findings, his article has attracted strong criticism. Greenwood, for example, attempted to hoist Zimring with his own petard by referring to the logical implications of this manner of measuring dangerousness.⁸ Citing earlier work by Benenson,⁹ he argued that if it is correct to say that guns are more dangerous than knives it is likewise correct to argue that an assault with bare hands is 50 per cent more dangerous than one with a blunt instrument. The basis of this argument was the 1.5 per cent of 59 547 attacks with bare hands in 1968 resulted in death whereas only 1.0 per cent of 52 213 attacks with blunt instruments brought about that result. Yet there is, surely, nothing inherently ridiculous about such a conclusion; if a measure of attacks in earnest could be consistently applied in such cases and if the sex distribution of attackers and victims could be controlled, it might well be found that the types of situation were not truly comparable. One cannot *know* this, of course; but at least Zimring has tried to control the variables in gun and knife attacks, something his critic does not do.

7. *Ibid.*, pp. 734-5.

8. Greenwood, *op. cit.* at note 2 above, p. 131.

9. Benenson, 'A Controlled Look at Gun Controls' (1968), 14 *New York Law Forum* No. 4.

Another protagonist, Murray, takes a more complicated approach.¹⁰ He constructs a United States-wide scale of gun-control laws, and for each State adds to this numerous other predictors of violence, such as population density, racial distribution, per cent unemployed, sex ratio, poverty, educational attainments, etc. Applying standardized regression coefficients, he reaches the conclusion that gun-control laws are not a significant indicator of gun violence in the community.

There are numerous defects in this work. A fundamental one is that it is naive to equate gun-control laws with gun availability; in the United States, there is much interstate movement of firearms. It is indeed precisely for this reason that the various federal laws in this area have not been successful.¹¹ Another objection to Murray's work is that it is too generalized, abstract and artificial; he is playing an intellectual game. As Zeisel has pointed out, 'Applied to non-experimental data, regression analysis is not naturally a robust instrument'.¹² The strength of Zimring's work is that it relates to real situations in a tangible context, whereas Murray is concerned with a statistical model applied indiscriminately across a massive population.¹³

Hardy and Stompoly¹⁴ make somewhat more telling points. After rehearsing, tautologously, the old familiar point that if a person takes up a gun at all and uses it against someone else he *must* intend to do more than merely injure the victim,¹⁵ they assert:

Zimring's third argument, that victims of assault and homicide are similar in terms of race and sex also does little to establish that the difference between a homicide and an assault is a matter of chance. It seems equally probable that these similarities reflect the distribution of crime in general, and violent crime in particular, among the population, rather than establishing any unique relationship between homicide and assault.¹⁶

They continue their argument by looking at other studies of the circumstances surrounding homicide and assault. These seem to show that there are significant differences between the two offences as to sex of victims, place of attack and age of offenders. The authors conclude:

Homicide offenders and assault offenders thus appear to differ in several material respects, ending to indicate that homicide and assault are not necessarily different products of the same motivation acting upon the same offenders.¹⁷

These are the strongest points yet made in the attack upon Zimring's works. They certainly raise some doubts about the accuracy of attributing intent in the ways Zimring had to rely on and the appropriateness of treating homicide and assault as a continuum. However, Zimring has never claimed that his work is cast-iron in this respect. His study remains the only one carried out in such detail; none of his critics have ever produced a comparable study showing conflicting results; and the patterns he brought to light are so marked that, whilst they might have to be modified by degree with fuller information, it is improbable that their general thrust would be invalidated. The overall assertion made by Hardy and Stompoly — that Zimring's work 'cannot be used to conclude that one weapon is

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10. Murray, 'Handguns, Gun Control Laws and Firearms Violence' (1975), 23 *Social Problems* 81.
 11. See Zimring, 'Firearms and Federal Law: The Gun Control Act of 1968' (1975), 4 *Journal of Legal Studies* 133-98, *passim*.
 12. Zeisel, 'The Deterrent Effect of the Death Penalty: Facts v. Faith' (1976), *The Supreme Court Review* 333.
 13. Murray's work is criticized as a statistical model by O'Connor and Lizotte, 'The "Southern Subculture of Violence" Thesis and Patterns of Gun Ownership' (1978), 25 *Social Problems* 420.
 14. Hardy and Stompoly, 'Of Arms and the Law' (1974), 51 *Chicago-Kent Law Review* 62.
 15. *Ibid.*, p. 105.
 16. *Ibid.*, p. 106.
 17. *Ibid.*, pp. 106-7.

more likely to kill than another'¹⁸ — is overstated.

In Australia, the New South Wales Bureau of Crime Statistics and Research replicated Zimring's work with regard to homicide and serious assault occurring in the State during 1972.¹⁹ In 80 per cent of homicides the killer and the victim were involved in a pre-existing relationship — spouses, lovers, other family members, neighbours, etc. In nearly 70 per cent of such cases an altercation was the triggering event for the fatal incident. Alcohol had reduced the inhibitions of 70 per cent of all killers.

Comparing homicides to serious assaults and attempting to control for variables in exactly the same way as did Zimring, the bureau's researchers concluded that a gun is at least three times more dangerous than the next most dangerous weapon, a knife.²⁰ Of course, the New South Wales sample was much smaller (82 homicides and 295 non-fatal serious assaults), but the study nevertheless provides striking support for the general thrust of Zimring's work. However, as the methodology was identical, it does not secure the Chicago study further from the sorts of criticism which have been described above.

One interesting disparity should be noted. In New South Wales, the use of a handgun was relatively exceptional (4 per cent of all gun attacks) whereas in Chicago handguns were the most common firearm used in attacks. This obviously reflects the disparate gun-ownership patterns in the two countries. It also explains why Zimring's work in this area has subsequently sharpened into a concern with *handgun* use in violent crime, rather than gun use generally. If the crude answer to his 1968 question, Is gun control likely to reduce violent killing?, were 'Yes', his answer a decade later would be a less simplistic one — 'Yes; particularly handgun control, and even more particularly control of large calibre and new handguns'. This answer would be reached by the following steps.

First, a nine-year study of homicide in Chicago²¹ revealed an increase of 115 per cent (from 397 in 1965 to 854 in 1973) in the annual number of homicides. Gun killings had, during the same period, increased from 50 per cent (197) to 71 per cent (608). Thus, virtually all the absolute increase in homicide generally was attributable to the increase in gun killings. In turn, most of this increase coincided with an increase in handgun killings.

A change had also occurred in the circumstances surrounding the killings. Whilst at the beginning of the period 76 per cent of killings involved parties already known to each other, the figure was only 64 per cent at the end of the period. This change was due to an increase in robbery murders — from 33 in 1965 to 162 in 1973. By 1973 there was thus one robbery homicide for every four non-robbery homicides, whereas in 1965 the proportion had been one to twelve. Overwhelmingly, handguns were involved in robbery homicides.

Second, Zimring analysed 1115 gun attacks, causing 156 deaths, in Chicago in a four-month period of 1970. When controlled for area of wound, multiple or single wound and general surrounding circumstances (domestic, altercation, etc.), it could be seen that attacks with a .38 calibre handgun were more than twice as deadly as attacks with a .22 handgun.²² Such a finding obviously fortifies Zimring's earlier works; even those of his critics who would argue that use of a gun at all ipso facto indicates a murderous intent would surely stop short or arguing that use of a

18. *Ibid.*, p. 107.

19. Gun and Knife Attacks, Statistical Report 9, New South Wales Bureau of Crime Statistics and Research (1974).

20. *Ibid.*, p. 5.

21. Block, 'Homicide in Chicago: A Nine-Year Study' (1976), 66 *Journal of Criminal Law and Criminology* 496.

22. Zimring, 'The Medium is the Message: Firearm Calibre as a Determinant of Death; (1972), 1 *Journal of Legal Studies* 97.

.38 indicates an even more murderous intent than use of a smaller calibre weapon. Obviously, the outcome of an attack is to some extent fortuitous. Zimring thus concludes: 'The criminal law of violence may be artificially separated into fatal and non-fatal containers that hold the same behavioural brew'.²³

Finally, a project was undertaken to trace handguns seized by police in eight United States cities in the period July to October 1974.²⁴ Broadly speaking, some 50 per cent of all such guns were less than five years old. Moreover, in all eight cities there typically occurred a year to year decline in the percentage of confiscated guns — more one-year-old guns than two-year-old, more two-year-old than three-year-old, etc. The work is quite complex, but Zimring tentatively concludes that an increase or decrease of, say, 50 per cent in the rate at which new handguns are annually introduced into the United States gun inventory would bring about 'an increase or decrease in gun-related crime much greater than the percentage change in total handgun inventory'.²⁵ This is because 'new guns flow more quickly into street circulation than older guns — in other words, new handgun markets, legitimate and illegitimate, are more efficient than recycling mechanisms such as private party sales of older guns and theft from individual owners'.²⁶

This conclusion is, perhaps, the least cogent of Zimring's various findings, for he does not consider the possibility that recycling mechanisms could become more efficient in response to a reduction in the supply of new guns. Nevertheless, it is a most interesting observation — one which should certainly fortify the determination of Australian law-makers and gun-licensing authorities to keep the influx of new *handguns* onto the domestic market down to the low current levels.

No work comparable to these last three studies has been done in Australia. One should always be wary of transposing overseas findings uncritically onto the differing conditions of one's own society. Nevertheless, if they are well-constructed and coherently argued, one should be equally wary of ignoring them. Australia should be prepared for a possible increase in the level of robbery homicide²⁷ and should, of course, do what it can to head it off; it should continue to be restrictive of *handgun* ownership generally; and it should be particularly restrictive of large-calibre handgun ownership.

Recent information about gun homicides and gun assaults in Australia is fragmentary. However, as far as one can tell, the situation is not unduly alarming. The 1975 study by the New South Wales Bureau of Crime Statistics and Research of murder in the State, 1973-74, showed, for example, that there were 39 gun murders. This amounts to the low rate of 0.85 per 100 000 inhabitants. The types of firearms used in all gun attacks (76) were predominantly rifles (73.4 per cent) and shotguns (22.4 per cent); handguns featured in only 3 cases (3.9 per cent). This weapon distribution broadly reflects State gun-ownership patterns²⁸ — a fact which itself tends to support the view that the bulk of such attacks is random and unplanned. Further evidence for this was found in the fact that firearms use was more common in those parts of the State where there is greater gun availability;²⁹ thus, in Sydney there were 1.38 gun assaults per 100 000 inhabitants whilst in the rural areas the comparable rate was 3.0 per 100 000.

Murder figures in Australian jurisdictions in 1976/77 and 1977/78 were also fairly satisfactory.

23. *Ibid.*, p. 122.

24. Zimring, 'Street Crime and New Guns: Some Implications for Firearms Control' (1976), 4 *Journal of Criminal Justice* 95.

25. *Ibid.*, p. 103.

26. *Ibid.*

27. See chapter 11.

28. See chapter 3, above, at pp. 53-5.

29. See chapter 3, above, at p. 56.

Table 10.5
MURDERS AND GUN MURDERS
AUSTRALIA 1976-78

	1976/77		1977/78	
	Total murders	Gun murders	Total murders	Gun murders
N.S.W.*	89	36	96	28
Victoria*	66	34	51	23
Queensland	47	†	36	†
S. Australia	28	15	36	12
W. Australia	26	3	16	—
Tasmania	8	4	5	2
N.T.	11	4	7	1
A.C.T.	2	—	2	—
TOTAL (excluding Queensland)	230 (41.3%)	95	213	66 (31.0%)

* Figures relate to the calendar years 1976 and 1977.

† Not known.

It can thus be seen that, for those jurisdictions where the gun-homicide component of the overall homicide rate is available, *36.1 per cent* of all murders in the two-year period were committed with a firearm. This relatively *low* percentage is certainly a contributing factor to the reasonably *low* overall homicide rate of 1.9 per 100 000.

Nevertheless, it should be noted that in England and Wales, where the overall homicide rate for the three-year period beginning January 1976 was just under 1.0 per 100 000, only 7.2 per cent of all homicides are committed with a firearm. The two factors exist, then, in tandem — a low homicide rate and a low gun-homicide rate, and for Australia a slightly higher rate and a much higher gun-homicide rate. By the same token, the 1975 United States homicide rate was an alarming 10.9 per 100 000; two-thirds of the 20 500 murders were committed with guns. It should be added that three-quarters of these were handguns.

The moral is insistent. The greater the number of guns which are available in a community, the more frequently they will be used in personal violence situations. Opinions may differ on whether cause and effect have been satisfactorily established, on whether dangerousness can be adequately measured, on whether the variables present in diverse and dynamic human situations can be satisfactorily controlled for the purposes of analysis. But the stark fact remains that, for societies deriving from the British tradition and at about the same stage of civilization and development, gun availability seems to be associated with gun violence. It would be a brave person who denies that there is a link; and the onus is certainly upon such a person to prove his point. In my view, no one has yet done so.

For Australia the message is unmistakable. The gun inventory should be permitted to increase only with the greatest circumspection and, in particular, the *handgun* inventory should be held at the minimum.

PRESENTATION OF PAPER

Professor Richard Harding

I was going to start with a rather lawyerly point but I think perhaps the Police Minister has almost, though not quite, headed me off. It does seem to me that where one has such a complex amendment to an Act which in itself is fairly complex, it is very necessary and desirable that a consolidated reprint of the Act be available as it is going through, not merely at some time after the event. This is so whether it is a *Firearms and Dangerous Weapons Act* or whether it is a *Strata Titles Act* or any kind of legislation. So my point is a very lawyerly one if you like, but it is also one which I hope any citizen in a democratic society who is trying to understand the laws which are passed by the legislature would share. I do believe there is an urgent need for a consolidated reprint. I welcome the fact that very full notes accompanied the Act; however, that is not as satisfactory as a consolidated reprint. I note, of course, that Mr Anderson anticipates that there soon will be one.

In my paper I somewhat criticised the New South Wales government for the long delay in bringing this matter finally to fruition. I appreciate that Mr Anderson himself has spent many hours dealing with this while he has been Police Minister; nevertheless, it is a pity action was not taken on this issue rather sooner than it was. In my paper I have set out three factors which I think make the Act somewhat more difficult to implement and will cause some greater concern amongst those groups which we call the "gun lobby". (This is not meant to be a pejorative term despite what one of the commentators said.) The factors are that the numbers of guns and owners have, of course, increased considerably over the last eight or nine years; concern about crime and particularly concern about violent crime is certainly growing in the community — perhaps growing markedly from the table I quote on page 34 — and this in turn of course leads to a quite wrong-headed belief that somehow or other to have a gun is to protect oneself from crime. It isn't, for reasons which have been well documented a thousand times. Of course, the third thing that is happening is the increase in gun crime.

I regret, therefore, that these moves were not made sooner. That is water under the bridge, and the real point is to try to make sure that this legislation, which I do believe is a balanced and sensible compromise between the competing interests in the way in which Mr Anderson set out, is enabled to function effectively. Some of the written comments suggest that this cannot be so because it is going to involve taking a vast number of policemen out of the ordinary community policing duties — something which will be seen not to be a very high priority as a pure police matter for trained police personnel. I am not privy to what Mr Anderson intends to do, but I would be astounded if this kind of function was going to be turned over predominantly to trained police personnel. This is a civilian task, in much the same way as Mr Anderson has already got civilians punching up crime data — data generated by serving police officers. I would be most surprised if this really is an impost upon police as police. It is going to be certainly something that involves the assignment of more people, but not sworn police personnel.

I do comment in my paper on the two week delay which originally had been suggested would be built into the new shooters' licensing system and apparently has been dropped at this stage. It may well be that under the very wide regulation-making power that we have been referred to, it can be brought back in but my own view is that a matter of this importance should in fact be in the legislation rather than in the regulations. I am sorry it has been dropped off. I think it will in fact increase the administrative difficulties which have been identified by some commentators. I note with some interest that there is already in Canada some pressure by Canadian police sources to have a two week cooling off for

administrative purposes. Such a delay serves both purposes — administrative and “cooling-off”.

The use of guns in homicide and robbery and the never ending debate about the instrumental dangerousness of guns as opposed to other available weapons (i.e. the substitute weapon theory) has been gone through over and over again at conferences which I have been at and many members who are at this seminar have been at; and one has to say that views appear now to be fixed. I certainly do not renege in any sense on anything I have said on this, but must draw your attention to one matter. It is very common for people who believe in the substitute weapon theory — that is if you are going to kill and you haven't got one weapon you go and get another and kill nevertheless — to cite the work of Marvin Wolfgang (*Patterns of Criminal Homicide*, 1958) and to cite in particular a statement of his which, because I like to lay all the evidence before the readers, I cite in my book. It goes as follows:

. . . few homicides due to shootings could be avoided merely if a firearm were not immediately present . . . The offender would select some other weapon to achieve the same destructive goal. (p.82-83)¹

That is quoted over and over again by those who believe in the substitute weapon theory.

However, Wolfgang has recanted from that point of view, has accepted that he failed to control for motive, and to control for situation and determination of attack in making that comment in the way in which Zimring does in his work relating to Chicago. In fact Wolfgang has so far recanted that he had occasion of few years ago to sue the National Rifle Association of the United States for persistently attributing this view to him, and I understand he won. So, those of you who regard Wolfgang as an ally in this regard should take note of the fact that he has had further thoughts and does in fact support the Zimring approach, which I myself basically endorse and which the NSW Bureau of Crime Statistics in its research seems to support.

Let me come to the legislation very briefly. I do believe, and I hope one day that I might actually be heard by some of those people who for example write the comments which have been tabled, that there is a need to strike a balance. Administrative practices can drive people mad even in relation to good laws, and unduly restrictive laws or procedures should not form part of the gun control legislation in this or any other State. I am constantly on record as saying that, and I am on record in this paper as saying that. I wish this would not be ignored by some of the people who make written comments.

I am also constantly on record as saying that it is able to be demonstrated that the safety consciousness and training, in terms of knowing what not to do with a gun, of gun club members is higher than that of other owners. This goes back to a 1978 article which was repeated in '79 and '81 and in '82 and now again today.

One item in the New South Wales legislation had concerned me a little was related to collectors. Mr Anderson has answered this in the presentation of his paper, and I think put it firmly on the record that the regulation making power will be used flexibly from the point of view of coping with legitimate needs. Collectors have always fitted rather awkwardly into any legislative scheme that any Australian State has managed to pass, and they are a group that should be taken special note of. Mr Anderson informs us this is now happening in the New South Wales legislation, and I welcome this.

Let me just deal with one other matter. Two of the papers suggest that I am uninterested in firearms offences and penalties for firearms offences. Well, I don't

1. See p. 50 Appendix 1. of paper.

know how one conveys that one is interested. I do devote a page and a half on pages ? and ? to this issue citing the Canadian experience and citing it with approval. I don't know whether or not higher penalties, a mandatory minimum in the case of the Canadian scheme, for firearms use in the course of carrying out an offence will actually act as a deterrent. That is a very sophisticated question, just as all deterrent studies are very difficult and sophisticated. What I do know and what I quite explicitly approve of, and I did so previously in 1982 in the John Barry Memorial Lecture, is this statement of values. Gun crime is particularly to be regretted and condemned by society. That is what the statement of a mandatory minimum for the gun aspect of the offence is saying. I agree with that, and anyone in the audience who makes a written or a verbal comment that suggests to the contrary is simply not reading what is there to be read.

What are the future issues? I tried to identify these. Co-ordination across jurisdictions: it is still a problem but now with New South Wales at last in broad line only Queensland is the fly in the ointment, and there is nothing terribly unusual about that. Tasmania, of course, has a legislative scheme which is not congruent with the main schemes on the mainland. I suppose in an ideal world Tasmania would come into line also, but it is not quite as important because the capacity the purchases and movements in Tasmania have to undermine policies on the mainland is obviously rather less than where other mainland States are concerned.

I mention the mail order business. I do find it quite extraordinary that the Commonwealth government has not taken a quite explicit line on this as far as I am aware. I also mention data. There is an urgent need not just to pass laws but to then collect data relating to those laws in such ways as enables them to be evaluated. The data would be, for example, the number of licences refused and the grounds upon which they are refused; the use of guns and what kinds of guns, licensed or unlicensed, registered or unregistered, in crime; surveys of suicides to see whether or not the gun laws are in fact being complied with because by and large there is no reason to suppose that an unlicensed shooter is more likely to kill himself with a gun than a licensed shooter, so the suicide pool as it comes through each year tells you something about the level of compliance. I could go on with examples. You need to collect data in such ways as to carry out a proper evaluation.

This brings me to the Firearms Consultative Committee or Advisory Council as Mr Anderson referred to it — I don't know what the favoured terminology is to be. I understand it must be intended to set up such a Council by regulation because in fighting my way through the 90 odd pages of the main Act and the 61 pages of amendments I could not find any reference to it as such. Whatever the intention, whether it is explicit and I missed it or whether it is to be done by regulation, it is to be welcomed in itself for the reasons that I set out in my paper when regretting that it is apparently not to be set up (page ??). It should enable a rational overview of policy development by interested parties. One of the things that could be evaluated would be the effectiveness of the present legislation, the Council could be given funds to commission research studies or alternatively the NSW Bureau could monitor the Act as it starts to bite.

Let me conclude this way. Mr Sheahan rightly said that in the end this is a question of values. I do agree with that, but I do think that data and facts and honest argument will bring the bulk of society into a situation where they accept this current legislative scheme. I think that most reasonable and honest people are capable of being persuaded by facts, and it is our job to evaluate and present those facts as the legislation takes effect. In the end those whose views are so fixed that they cannot be persuaded must, I am afraid, be ignored. I hope very much that it does not come to that but I do believe that firearms laws are capable of being a bi-partisan matter and should ideally be approached in that way.

DISCUSSION PAPER 1

Norman Blake

As a person who will be attending the Gun Control Seminar, I wish to respectfully make the following submission:

That the *severity* of the new Gun Control Laws is inequitable and discriminatory; and for the following reason.

It is accepted that alcohol-related road deaths amount to about 58/60% of the total road deaths. This would average out at some *600 deaths per year*. The Minister for Police stated officially that firearm-related deaths last year amounted to *211 deaths*. About one third of alcohol-related deaths.

It is seriously submitted that the legislation is inequitable and discriminatory when the Government comes down like a ton of bricks in relation to 211 deaths, and comes down on a 600 annual death toll *benignly* by increasing the sale of alcohol from six days to seven in the face of a Referendum against Sunday Trading, and further keeping the breathalyzer buses away from Pub parking lots where they would do the most good.

Why the inequity and discrimination? The comparison is glaring!

The Minister says there are 2,000,000 guns at \$2.00 each, that is \$4,000,000 bonanza which will accrue because of the registration of guns. I believe there was an advertisement in the Government Gazette calling for a man to come forward to administer the financial side of the gun Act and he had to have the "ability to manage a high volume, revenue raising area". I also wonder if the registration of air guns isn't just a method of getting more money. There must be a quarter of a million airguns which will yield half a million dollars. No crimes have been committed by airguns, so why are they included? Is it because they are a bit of a gold mine?

I want to finish by saying that the gun owners are scared that the government may break its promise and may institute annual registration of rifles. This would bring in some \$4,000,000 a year. I am wondering whether the government is *sincere* in the face of the benign attitude to 600 deaths a year because of not coming down hard on the sale of alcohol. I wonder whether they are really *sincere* in making a fuss about it on the emphasising that it is to save life. Is it to save life or is the main reason because they have discovered a gold mine?

Reply by The Honourable P. T. Anderson, M.P.

There are 1,000 people walking around New South Wales today because the Wran government introduced random breath testing and to suggest we have done nothing about the road toll is ludicrous.

Secondly, if we are looking for a goldmine and a revenue raising exercise it may have been that the government would have imposed a charge under the new provisions for a shooter's licence that was at least 50% higher than the one we proposed, and bring it into line with the cost of a licence to go fishing or to drive a motor car. To suggest that these were revenue raising measures denies the reality.

DISCUSSION PAPER 2

Robert J. Mitton, FRMIT, MIE (Aust.)
Executive Officer/Legislation,
Sporting Shooters' Association of
Australia.

Appreciation is expressed to the Institute for the opportunity to participate in an analytical discussion on the subject of gun control within a venue devoid of contention and partisan political persuasion.

The papers presented are clearly the result of sizeable work by their authors and provide a unique opportunity to explore the very topical subject in depth. This is particularly fortuitous as the New South Wales legislation is presently undergoing amendment. The Sporting Shooters' Association of Australia puts forward the following discussion on the papers with the aim of contributing in a positive sense to the quality of the debate.

1. **The Attorney-General** — this paper sets out the rationale behind the current amendments passed by the New South Wales Government in February and March of this year. In highlighting certain aspects of reference works by Huckens, Wilson and Harding, Sheahan fails to include research published by Greenwood in the United Kingdom,¹ the detailed report of the Support Services Directorate within the New Zealand Government, September 1982, and furthermore, whilst giving passing reference to the National Conference on Firearms Laws and Use in Perth, 1981, omits any reference whatsoever to the conclusions of that seminar on firearms registration presented by Workshop No. 5.²

Greenwood's earlier research concluded that

A simple system of licensing the individual rather than firearms should be examined and that if other evidence could not be introduced to show that registration was of benefit, then it should be abandoned.

The Support Services Directorate report was an extensive brief to the New Zealand Minister for Police and recommended the scrapping of firearms registration in that country and interestingly enough includes a specific police department report dated August 10, 1975, which concludes:

It is evident from the review that we are no longer able to effectively control the possession of firearms under the present system of registration.

Registration in New Zealand was subsequently scrapped in 1983.³

Furthermore, the New South Wales Attorney-General's Armed Robbery report of December, 1977⁴ published the following figures showing that (registered) handguns are well represented in incidents of armed robbery when compared to (unregistered) longarms, which would indicate that registration as a crime reducing tool would not appear to be a significant factor in this study:

	Victoria		New South Wales	
	1975	1976	1975	1976
Longarms	98	102	178	170
Handguns	84	108	103	119

1. Greenwood, C. *Firearms Control*, Routledge and Keagan Paul, London (1973).
2. First Australian Conference on Firearms Laws and Use, June 1981. Perth. Workshop papers.
3. Australian Firearms Institute, *Project Foresight* (1983)
ed. to quote from p.3 of this publication. "These notes explain why the licensing of persons who possess firearms was introduced, instead of registering rifles and shotguns under the (New Zealand) *Arms Act*, 1983."
4. N.S.W. Bureau of Crime Statistics and Research, Attorney-General's Department, Research Report No. 2, *Armed Robbery* (December 1977).

The Perth Workshop conclusions were to the effect that:

The overwhelming majority view was that when balancing up all of these considerations there was little value for crime prevention in a registration system for rifles, there were two dissenting views (without supporting evidence) from that majority view, but that was overwhelmingly the answer.

Two senior officers from the New South Wales Attorney-General's Department, Drs. Eggar and Woods, were participants at that seminar and these conclusions with attendant briefings would be readily available to the Attorney.

Latest reports from Victoria indicate that the new registration system down there is months behind, has irritated legitimate applicants, is going to require more police to administer the system and has not yet produced one solved crime through the use of records.

In failing to examine the above counter-balancing evidence, Sheahan's paper offers an incomplete case for the rationale behind the amending New South Wales legislation that requires the compulsory registration of firearms and therefore encourages the reader to look further in an attempt to gain a balancing overview of the impetus behind the Bill.

2. The Minister for Police and Emergency Services — Anderson properly highlights on page 19 of his paper the fact that:

All parties to the debate agree that the misuse of guns is an increasing problem and that lack of relevant comparable statistics cloud the issues involved.

Casual reference is made to the problems being experienced in the United States, but the paper does not appear to highlight salient statistical evidence in support of compulsory registration. Page 18 para. 3 attempts to partly explain why registration did not form part of the 1973 Act presently in force, but fails to add that factors other than magnitude of the task were considered by administrators in the past. The Sporting Shooters' Association has submitted extensive material in support of the case against registration, as indeed have other reputable organisations as well and this would have had impact along with the administrative magnitude; but again this paper does not include that material which would be readily available to the Minister⁵. If, therefore, it is only "such assertions that now have to be reassessed", i.e. magnitude, then it can be clearly seen after having closely examined this material that Anderson's assessment as foreshadowed is narrow, by way of no amplified argument being put forward representing an objective assessment of registration as a crime preventative tool.

Upon examining this paper further, page 21 para. 2 suggests that the review of the proposals had been completed prior to the Milperra Massacre and that the massacre itself was not the cause of the introduction of the new Act. This assertion, however, is not supported by the Minister's communication of March 9, 1984, to the Sporting Shooters' Association which confirms that the review was not yet complete as at that date. In that same communication, Anderson undertook to fully consult with the Association upon completion of the review but actually this did not take place, nor was any contact initiated by the Minister during that period of time from March 9th leading up to the Milperra incident.

Premier Wran's press release dated September 4, 1984, immediately following the incident outlining:

An attack by the State Government upon violent anti-social behaviour in the community "highlighted by the savagery which occurred at Milperra last Sunday", which includes, amongst other things, the "recently

5. The Sporting Shooters' Association of Australia, 26 May, 1977 (to the Premier).

completed review of the gun laws", which for the first time involved compulsory registration.

In view of the above, therefore, the credibility of this portion of Anderson's paper purporting to outline the rationale behind the legislation can be called into question.

The recently published New South Wales survey on Drugs and Crime⁶ shows that the majority of armed holdups are drug related and that particularly heroin addicts in desperation turn to the misuse of firearms to appease their habit. By seriously addressing the drug problem, upon reading this report it would be reasonable to expect a significant impact upon armed crime and the Government would in all probability serve the community better by concentrating police resources and public money further into this area rather than having these dissipated upon the compulsory registration of firearms with its consequent administrative support.

Anderson's paper draws much attention to the so-called "gun lobby" component to the debate and appears to reinforce the impression that the registration part of the new legislation is propelled more by Party political considerations and a reaction to the Milperra Massacre rather than a ventilation of the positives and negatives of the registration argument that has already been submitted to the Minister.

Whilst Anderson obliquely refers to Dixon's review,⁷ no mention is made of Dixon's findings in Perth in relation to the administration of firearms registration in Western Australia:

There is little doubt a great many firearms users are greatly irritated by the manner in which the Act is enforced . . . some officers are undoubtedly obstructive and regrettably some are discourteous in the manner in which they deal with applicants.

A search of the paper does not reveal any proposed safeguards being initiated by the Minister to protect against aberrations such as the above, as the Amendment Bill, 1985, does not even mention the establishment of a Consultative Committee. Whilst the Association has requested participation on same, no details whatsoever as to the make-up of the Committee are available at this stage.

Police administration of pistol licensing in New South Wales has been closely examined by the Sporting Shooters' Association⁸ and similar patterns have been identified in relation to the treatment of both applicants and licence holders alike. These aspects have been taken up with the police administration, but no real satisfactory response or accommodation has ever been achieved. This drift in departmental administrative practices must not be permitted to occur with the new legislation if it is to be accepted by the shooting community. The Minister is uniquely placed to prevent aberrations occurring by a propitious construction of the Consultative Committee and ensuring that it is an effective steering body.

The goodwill and co-operation of the Shooting Associations is essential if the Act is to work in practice. Whilst it is considered that the registration and discretionary powers over issue of Shooters' Licences will bring frustration and disappointment if mismanaged, Anderson's paper unfortunately upon examination, offers little reassurance in this regard whilst the details of the Consultative Committee and its proposed Terms of Reference still remain unavailable for scrutiny.

6. Dobinson, I and Ward, P. *Drugs and Crime. A Survey of N.S.W. Prison Property Offenders, 1984.* N.S.W. Bureau of Crime Statistics and Research, Attorney-General's Department (1985).

7. Dixon, Oliver F. Q.C., *Review of Western Australian Firearms Legislation (December 1981).*

8. The Sporting Shooters' Association of Australia: Submission to the Minister on the administration of Pistol Licensing within the N.S.W. Police Department.

The Sporting Shooters' Association of Australia will co-operate with the Government and offers its resources to assist in the introduction of the new legislation by way of participation within the Consultative Committee.

The format of compulsory registration with attendant police discretion in the Amendment Bill is not popular within the shooting fraternity, will consume extensive police manpower based on previous experience in other States and Countries and does not appear to have any substantive rationale in the two papers presented by Sheahan and Anderson.

PRESENTATION OF PAPER

Robert J. Mitton.

My paper particularly and that of the Association was to look at what was the balance of argument as considered by the government. Unfortunately, to our way of interpreting what was presented, a balanced overview of the evidence to hand has not been forthcoming in the papers presented by the two Ministers and, hopefully, the paper that we did present points this out.

I was particularly concerned that the material prepared by the New Zealand Support Services Directorate was not even referred to. That is a two inch thick document prepared by the New Zealand Government in 1982 which means it is right up to date.

I did not quote Greenwood's work in fact as the Attorney indicated. What I did emphasise in the paper was that Greenwood had found certain trends in the United Kingdom and those trends were to the effect that registration should be re-examined and control over the *user* looked at as a more suitable model. I hope that did come out in the paper, but I certainly did not use any particular set of figures that Greenwood published.

The Consultative Committee is not mentioned. I agree with Professor Harding on that. I did not see it anywhere in the amending Act, and there has been no instruction, publicity or publication issued by the Government to say that "Yes, this will have a forceful role in the implementation of the Act." We believe it will, but certainly the sad part about the Bill is that it (the Consultative Committee) won't form any real role in the appeal process. This is the case in both South Australia and Victoria and for that Consultative Committee to have real effect it should be right in line control of the administrative process. I do hope that the Minister, in his uniquely placed position, takes the legislative or regulatory action to ensure the Consultative Committee will in fact be a meaningful body.

Reply by the Honourable P.T. Anderson, M.P.

Nobody should be in any doubt about it, and I would not have thought Mr Mitton would have been in doubt considering the number of discussions that we have had.

I have made it quite clear that it would be a representative body, not only of those who have a different view to yours and your Association with regard to gun laws, but including groups who represent the needs of shooters. The very real reason why there is such a wide regulation making power has been indicated to ensure that people will not have to wait two or three years for an amendment to the Act itself to overcome any difficulties that may be encountered simply because they were not envisaged. I can recall during the consultative phase that there were 14 or 15 groups that I consulted with, including yours, and issues were raised that some people had not really thought about. The fact that we can do it by regulation will enable us to amend and overcome difficulties in a very short space of time. It is my fervent hope that when the Committee or Council is set up in the very near future that they will be able to play a significant role in the preparation of the regulations to the Act. They will represent all the points of view, overcome the difficulties and be fair to everybody involved. I can only say that most groups that I spoke to welcomed the concept of the Committee, but if we put everybody on it who wants to be on it we would need the Sydney Town Hall for meetings — and obviously we are not going to have it that big — but I will do my best to ensure that all viewpoints that ought to be represented will be represented on it, and you may have my assurance it will be a meaningful Committee.

Robert Mitton

In support of that part of the paper, the Association would be delighted to participate. I would, however, certainly fully support Professor Harding's comments that the administrative processes should not be unduly restrictive. In Western Australia they are literally beaten to death and the success or failure of acceptance of this legislation will critically depend upon whether the principal bodies are involved in that Committee.

WHY GUN REGISTRATION?

W. Woolmore,
National President,
Sporting Shooters' Association of
Australia.

This seminar appears to present only one side of a most important issue. Interested groups were invited to lodge responses provided they could do so at a few days' notice. For sporting administrators this time frame is unsatisfactory and does not allow for preparation of the detailed responses which the papers call for.

The paper by Professor Harding is the only one which does not openly project itself as a political document, nevertheless its porosity is not disguised by Harding's professorial standing and it can not be permitted to pass as an objective academic contribution.

The principal point of difference between Harding and the shooting organisations which he denigrates with the misnomer "Gun Lobby" is his apparent obsession with gun registration. His assertions rely on a false hypothesis which accepts the value and desirability of gun registration as a foregone conclusion. He has failed to discharge the onus of proof that rests upon him.

The weight of the world-wide research has already established the impotence of gun registration as a crime fighter. Harding, although persistently advocating registration, has yet to produce convincing evidence to support it.

In paragraph ? on page ?? of his paper Harding hedges his bets on the likely effect of his controls, whereas Carl Vandal¹ has meticulously demonstrated that there is little, if any, positive or beneficial result from them — particularly the registration of long guns.

Greenwood points out in his book *Firearm Control* that the inevitable lack of any demonstrable benefit from costly, draconian controls on the sportsman (for that is the only area where the impact is felt) leads, not to critical evaluation of the worth of those controls, but to increasingly more stringent, but equally ineffective measures.

The ultimate long range purpose for registration is confiscation. History has shown that this occurs when a totalitarian regime is forced upon a people against its wishes. Such regimes make gun confiscation a top priority. While this may seem an improbable contingency for Australia at this time we cannot foresee what the future holds.

The short term effect of registration is unjustified restrictions and taxes on the hunting/shooting sports and on historical collecting. It generates hostility and confrontation between police and the community, and it misuses vital police manpower and resources. At best it is a ritualistic approach to the crime problem. At worst it has sinister and disturbing aspects.

The stated purpose for these controls — to reduce the gun inventory — is a thinly disguised euphemism for removing the rights and property of legitimate sportsmen and collectors while failing to have any impact on the armed criminal. Perhaps those who are obsessed with registration do not perceive criminals as the danger.

1. Vandal, C.G. *Firearms Control. A Comparative Study of the Systems in the Australian States with particular reference to Queensland.* Australian Firearm Law Institute, Melbourne, 1983.

When Harding's American, anti-gun colleague, Professor F. Zimring, was in Australia in 1981 for the Firearms Conference in Western Australia he needed only a few days to sum up the Australian situation. He observed at that conference that **AUSTRALIA DOES NOT HAVE A GUN PROBLEM** but he felt that this country's shooters had a media problem.

Sportsmen generally agree with the desirability of legislation designed to ensure that firearm owners are fit and proper persons to safely and responsibly own, possess and use firearms. Other controls, which have already proved to be time wasting, costly, and unjust are opposed and their negative aspects will, in time, be clearly seen by the whole community.

**GUN LAW "REFORM" IN NEW SOUTH WALES
A RESPONSE TO PROFESSOR RICHARD HARDING**

*Dennis Bullivant and Ian Linney,
Firearms Sports Association.*

When faced with the task of framing a response to the paper submitted to this seminar by the Director of the Australian Institute of Criminology (Professor Richard Harding), the Firearms Sports Association has been placed at a severe disadvantage. Firstly, as a copy of the Harding paper was only made available a very few days before a looming deadline, the response was not as comprehensive as we would like. Secondly, the Firearms Sports Association must necessarily draw upon voluntary resources for *all* aspects of this response. Given this — and the fact that papers from New South Wales Government Ministers were not available for examination at the time of writing — it is difficult to conduct a rational debate on the contentious subject of Gun Law "Reform".

Not that Professor Harding says anything fundamentally new or novel in his paper (pages 32-49). In fact, the law-abiding firearms user in New South Wales can take little solace from that paper. Professor Harding wants the gun inventory reduced, he desires the registration of all long-arms, his object is the elimination of so-called "casual" gun ownership — and all for our own good, of course. As the remarks of Professor Harding directly infringe upon the activities of the law-abiding owner and user of long-arms in this State, his paper is fair game for critical comment.

On the surface, it must be admitted that the "Harding Hypothesis" has a certain, fabianistic logic. From the Massacre at Milperra to Macquarie Street, the Professor builds his case via tables on "gun crime", perceived community fears of "violence", and makes liberal use of overseas research for his final assault upon inanimate objects. Not only overseas research, for the Professor makes no less than nine references to his own work in the seventy-four footnotes.

What does the lay person (albeit one of a group targeted by the Professor) make of his latest Harding paper? For one, it is apparent that he is not at all pleased with certain modifications recently made to the NSW *Firearms and Dangerous Weapons Act*. The Professor considers that the Amendment Act is adequate; but comments that a two-week "cooling off" period after a Licence Application should have been insisted upon. Furthermore, he writes critically of the one-off firearms licensing scheme; nothing but rigid, annual checks is adequate!

The crux of Professor Harding's paper is that a long-arm (i.e. a rifle or shotgun) is "inherently dangerous"; as far as the "Harding Hypothesis" is concerned, that is that. The FSA would concur that *any* firearm (even air guns dismissed by the paper) can indeed be dangerous in careless, criminal, irrational or insane hands. The same, however, can be said with equal force about many other tools and adjuncts commonly used in our society.

On a purely philosophical note, would the "inherent danger" aspect of the "Harding Hypothesis" extend to his advocating similar restraints over the ownership of motor vehicles? What about knives and clubs? Is the lowly kitchen knife also "inherently dangerous"? After all, that humble instrument caused a fair bit of mayhem recently in the Kings Cross area of Sydney. If one pauses to consider "inherent danger", it is clear that many such implements have a ready application to offences of a criminal or domestic nature. The question is why the Professor singles out one of a series of inanimate objects for discrimination.

The "Harding Hypothesis" is that long-arms present something called a "risk factor". In his recent paper, the Professor has gone to great lengths to prove his contention that long-arms have an almost satanic menace; yet the lay person (especially the lay person interested in the safe and responsible use of all firearms) can demolish that myth in short order. Sitting on a rack or placed in a cupboard, *no* firearm is inherently dangerous. Left to its own devices, it will not discharge itself, it cannot load and cock itself, and even the most sophisticated shoulder arm in the military inventory certainly cannot direct itself and select an object to fire at. Any firearm may — if left in a loaded state and misused by careless or inquisitive hands — discharge. Any firearm may be hefted, deliberately loaded and used for illegal purposes. No matter if careless, criminal, irrational, or insane hands use a firearm, the human component necessary to direct that firearm and discharge it should be obvious to the most cloistered of minds. Thus, the "inherently dangerous" nature of any inanimate object (such as a firearm) can be dismissed as a chimera.

Further, the "Harding Hypothesis" contends that "If licensing (of the shooter) is to be effective, there must also be gun registration." That is one of the most contentious aspects of the legislation recently assented to in N.S.W.; for registration implies control and restriction is certain to follow. Again, the lay person is entitled to look at the contention on its merits — and simply ask; Why?

As any firearm is an inanimate object (remember, it needs a human agency to cause it to actively threaten or intimidate), it exhibits few of the traits that characterise other, commonly owned objects that are presently registered. A media catch-cry has been: "Cars are registered, why not guns?" such a contention (it can hardly be counted as an argument) can be disposed of in short order. Motor vehicles are registered largely for taxation purposes — to provide funds for roads and to meet Third Party Insurance claims assessed on an actuarial basis. Motor vehicles are not registered to prevent their falling into the wrong hands; they are registered for taxation purposes.

Professor Harding further cites police operational needs in arguing for long-arm registration. A little serious consideration will reveal that the police already have a computer-stored register of licensed firearms owners; based on the shooter's licence. Does the Professor seriously expect the seminar to believe that police officers, sent to investigate a reported "domestic" at the home of Mr and Mrs Citizen, do not *already* have and use an existing system to warn them of possible involvement of firearms?

In forming the body of his present paper, Professor Harding makes free use of overseas experience; both to reinforce his "risk factor" chimera of an inanimate object and to make a case for the registration of long-arms. Such overseas experience is, however, only cited in such a manner that it bolsters his argument. The Canadian experience is especially cited (see page 44e); but the Professor is not telling us the whole story about the Canadian experience. In that dominion, firearms are placed into one of four classes according to characteristics — and all that is required to purchase a long-arm (conventional rifle or shotgun) in Canada is the presenting of a Firearms Acquisition Certificate (FAC) to the vendor. Such a certificate is only issued to a suitably licensed shooter by the provincial police.¹

A little closer to home, the FSA wishes to highlight a fact regarding long-arm registration that is conveniently ignored by Professor Harding. The place is New

1. "Gun Control Canada and the Visitor" by G.N. Dentay, published in the 1980 edition of *Guns Illustrated* published by DBI Books, Northfield, Ill. (US). This article describes the structure of the Canadian Firearms Legislation, provides examples of the FAC, and does so from the viewpoint of a visitor to the Dominion from the United States.

Zealand, and the relevant fact is that the police in that country have recently scrapped a long-arm registration system that has been in use since 1920. Why? Because the relative cost and efficiency of the sixty-five year old registration system could not be justified.² Instead of licensing the long-arm, the NZ police opted for a system of licensing the *user* instead. Remember, New Zealand is a country with background and heritage very similar to our own. Furthermore, it is largely comprised of semi-urban and rural communities; the very type of communities in which one of the Professor's Key references (*Firearms and Violence in Australian Life*) targets as having the highest incidence of "gun assaults". Are long-arms less "inherently dangerous" in New Zealand than in Australia?

Again on a philosophical note, the political overtones of restrictions on firearms (leading, as they inevitably do, to gradual prohibition) are very apparent historically. Australia is presently the adopted home of many thousands of emigrants who would be able to tell the Australian Institute of Criminology all about creeping dictatorships; either of the self-appointed variety or else elected by one process or another. Such regimes simply do not like the masses to have ready access to *any* means of resistance — and that includes the media, free assembly, or firearms ownership. A free society such as our own need not concern itself with such heavy-handed interference. Each citizen has a stake — large or small — in the democratic process and, should a Government be seen to be acting to excess, the ballot box is the ultimate sanction.

On a practical basis, the only restraint a free society needs to place on the private use and ownership of long-arms revolves around the character of an individual. In other words, the lack of a criminal record (innocent until proven guilty) and evidence of a balanced social background are sufficient evidence; that plus the passing of an objective examination in firearms-handling procedures.

As matters stood prior to the recent amendment to the NSW *Firearms and Dangerous Weapons Act*, this State had the basis of a very equitable and sound system; the shooters' licence. Media comment that the shooters' licence is akin to a formality, and issued virtually upon demand, are simply ill-informed. The police *already* have the power to investigate the background of a shooters' licence applicant before any such licence is issued. It appears that in the overwhelming number of instances, the police simply do not make even the most routine of enquiries. If the police do not have the man-hours available to check applicants under a relatively simple system, just how are they going to administer the infinitely more complex matter being thrust into their lap?

Professor Harding passes lightly, if at all, over the subject of penalties for the criminal use of firearms; he might be interested to learn that the lay person would be only too happy to see even stiffer penalties meted out than are already provided in the amendment to the N.S.W. *Firearms and Dangerous Weapons Act*. Society needs to be protected from the depredations of its less savoury members; especially if those persons resort to the use of firearms. It can thus be seen that the Firearms Sports Association disputes in the strongest possible terms the "evidence" presented by Professor Harding in his paper on "Gun Law Reform in N.S.W."

This paper need not concern itself overmuch with the nature of the future political (voting) direction of the Harding-targeted long-arm-using public in N.S.W. It is clearly the duty of an opposition party to take an interest in public objection to ill-considered Government legislation. In conclusion, the Firearms Sports Association seeks to express total disagreement with the avowed intent of

2. *Project Foresight* booklet prepared by the New Zealand Police Department (not dated). Professor Harding should take a good look at this particular document, reprinted in the public interest during 1984 by the Australian Firearm Law Institute.

the most recent Harding paper on the subject of gun control. In seeking to ease certain of the ills of society, the Professor targets the long-arm itself (inanimate, of wood and metal). Such a view is, in the Australian vernacular, "a cop out"; it does not hold water. Rather than taking a simplistic view, the Firearms Sports Association believes that an emphasis on owner-responsibility is the answer. Put in essence, a citizen in a free society has the right to pursue his interests as long as those interests are not in conflict with the good order and stability of that society.

COMMENTARY ON PROFESSOR HARDING'S PAPER

R. B. Tunney

In view of the very short notice of this Seminar, and the strict restriction on space imposed by the Institute of Criminology, it is not possible to present other than a broadly-based and undocumented refutation of the Professor's thesis.

On page 32 Professor Harding implies the superiority of the Western Australian legislation over that of N.S.W. Now State chauvinism (Professor Harding is Western Australian) can be a good thing. But he should have mentioned that under that Act, Western Australia sustains the highest per capita rate of gun crime, and the highest rate of violent crime increase, in Australia. And he should have mentioned that in the 10 years following Victorian restriction of long arms, that State suffered a 204.5% increase in firearms homicides. While over the same time in N.S.W., prior to introduction of such restrictions, our figures were reduced by 7%.

Part of this is due to the encouragement of criminals to arm themselves against a defenceless population. The balance, ascribed by Professor Harding to inadequate training (page 43), rests on the limitation of new shooters to access to instruction. Such instruction, throughout the world, is performed by the shooting organisations, which can do so only if their members, both actual and prospective, have ready access to equipment. That they do so efficiently is shown by the absence of any fatality on any shooting range in Australia over the past 130-odd years. Such bodies throughout the world have an equally-proud record.

He also on page 32 ascribes this action to the so-called "Bikie Shoot-Out". It is known that the legislation was prepared well before that date, and was for presentation to Parliament the week following the occurrence. Questions have been asked concerning the timing of this incident.

On page 33 he draws attention to the increase of unlawful use of firearms from 769 in 1975 to 2382 in 1983. On 7th July 1972 I forecast to the then NSW government that this would be the inevitable result of its introduction of restrictions. The present Government wishes to exacerbate this situation.

Professor Harding repeatedly returns to his theme (page 35) that firearms are more dangerous than other weapons. This is not the lesson of history. Always in warfare, higher percentage casualties attend handstrokes. True, military records show a higher percentage of wounds by bombs, shells and small arms. But then, the man injured by a bayonet does not come back to the Lines of Communications. He stays where he is — under dirt, if time permits. But it takes about 150 tonnes of projectiles to kill a man. In the days before guns were used (only in the last 600 years of man's 5,000,000 year history), casualties on the defeated side often neared 100%. Moreover, he contradicts his own table on page 41.

On page 37 he admits that firearms restrictions do not reduce armed crime, tending to accept my premise above that they increase it. The earliest murder of which we have written record is in *Genesis* 4:8 — at least 5300 years, if we follow Archbishop Ussher's chronology, before firearms were introduced. The Princes in the Tower were, I understand, smothered with a pillow. The Slaughter of the Innocents was affected with swords and spears. Murder has been with us for some time, and, I fear, will remain. If a murderer lacks one weapon, he will use another. Wolfgang supports this view, at page 120.

What the Government proposes is to attain the 800,000 N.S.W. firearms users with intent to misuse their guns. It takes severe action against them because of its manifest inability to control their misuse by a minute fraction. The plain fact is, that

with 800,000 shooters firing some 200,000,000 rounds per year, for minute casualties, shooting is among the safer sports, and is conducted with skill and circumspection. So much for Professor Harding's criticism on page 43. Not being a shooter himself, he cannot be accorded any authority in this sphere.

A major fault with the legislation is the provision (page 39) for a licence to be issued only "for good reason". This restriction appeared in the 1929 *Pistol Act*. The Police Commissioner of the day directed that no reason should be good. History does have an uncomfortable way of repeating itself. Professor Harding supports registration, largely so that police should know whether firearms are available at a location. I suppose he does not know that police at stations have no access to Firearms Registry records. And I suppose he also does not know that New Zealand has lately abandoned registration, because after 63 years of trying to do it; they have at last realised they cannot do it.

One cannot be sure how many long arms there are in N.S.W. But taking a figure of 1,000,000 as being the extreme minimum, and allocating one hour (again, a minimum) for each inspection and recording for registration, we have 25,000 man/weeks of effort. In other words, it requires the whole attention of at least 480 police to carry this out in the year of registration. At least, this would tend to keep police to even greater extent in their stations, which, in view of the extreme rarity of seeing police vehicles on the roads (as distinct from being parked at stations), and the complete absence of foot patrols (Mr Anderson's latest idea will not last long), would appear to be the modern local trend. The New Zealanders found they could not do it, the Victorians, with less demand upon them, are taking up to 12 months to issue licences. This last could be the reason for the N.S.W. Act failing to specify a period in which the licence is to be issued.

No reasonable person will object to the provision of penalties for misuse of arms. But all this Act does is to assign as criminals and potential criminals 800,000 law-abiding citizens.

DISCUSSION PAPER 6

R. H. J. Hyne B.V.Sc., M.A.C.V.Sc.,
Senior Lecturer, Department of
Veterinary Clinical Studies,
The University of Sydney.

My own involvement and interest in firearms is as follows:

1. Collect antique firearms — antique pistol collector's licence held.
2. Shoot regularly at Silverdale rifle range.
3. Occasional hunting — shooter's licence held.
4. Pest control on own property.
5. Tranquiliser rifle — licence held for use in veterinary practice.
6. Revolver — used for humane destruction of animals in veterinary practice — pistol licence held.

I consider the proposed legislation involving registration of individual rifles and shotguns has nothing to commend it and will be very expensive for all concerned. What will it achieve?

- A. Some states in Australia have legislation similar to that proposed, others do not. There has been no convincing argument that criminal use of firearms differs to any great extent in the different states.
- B. After many years of restrictive firearm control, New Zealand has recently abandoned such legislation in favour of an educational program combined with *licensing of shooters*, not guns. This scheme has the whole-hearted support of the sporting shooters of New Zealand. The licence is issued for life and can be suitably endorsed if a person is approved to have a pistol. Illegal use of firearms carries suitable heavy penalties.
- C. For many years, New South Wales has had a highly organised system of pistol control — I do not know of any criminal use of such licensed pistols. However, this has not stopped the illegal use of concealable weapons by criminals. Would the proposed individual licensing of rifles and shotguns have any real effect on their use by criminals or hoodlums?
- D. If the New South Wales authorities cannot introduce a convincing argument demonstrating the real need and effectiveness of the proposed laws, why introduce something which will be a source of friction and ill-feeling between the law-abiding shooters and the hard-working local police. What is the real cost effectiveness of this proposed legislation? Is it too late now to change it for the better researched overseas model?

PRESENTATION OF PAPER

R. H. J. Hynes

In a country town the police are part of the community. They are not segregated perhaps to the same extent that they might be in some suburbs and this legislation is going to drive a little wedge in there. This came home to me particularly strongly when I was a guest speaker at a Sergeant's dinner several years ago, and the theme of my talk was the similarity of the jobs of the veterinary surgeon and the policeman. Both have enquiring minds, they chase facts, and so on. A policeman who subsequently became Deputy Commissioner, said to me afterwards "Look, we enjoyed your talk, but we are *not* the same. We are regarded as just that little bit different by the community and it puts us a bit aside", I think anything that can exacerbate that feeling is an awful pity.

The only comment I would like to make on Professor Harding's paper concerns the emotive side of it. It was suggested that at a University seminar emotions were not fitting and we should be factual. The heading "the Massacre at Milperra" is emotive if anything is. "It set the government clanking into action." Another emotive statement that I don't really think helps because it was refuted by Mr Anderson, and I prefer Mr Anderson's version of the chronology of the events of the legislation. I do not think the tables on page 34 of the Harding paper are statistically valid. I would ask Professor Harding to consider whether he can draw the conclusions from those that he has.

DISCUSSION PAPER 7

P. Cuddy, A.I.I.E., J.P., and R. Cook, A.C.A.
The Arms and Militaria Collectors'
Association of N.S.W.

We only recently became aware that we were eligible to participate in this seminar, and as participants, we would have the opportunity to submit written comments on the papers to be presented, and ask questions of the presenters of such papers. Had we known earlier, we would have submitted these comments in time for their despatch with the papers of the principal speakers and the commentaries received from other interested parties.

The following is a brief outline of our major concerns with both the existing firearms legislation and the Amendments to such legislation of 1985. The Committee and Membership of this Association are receptive to responsible legislation that would be effective in countering firearms misuse and the potential for their misuse. However, the proposals as presented by the Government to date, appear to have been poorly researched and developed in many areas, and cannot all be supported. The concept of many of the proposals sets out to treat responsible adults within our community as naughty children. Indeed, this Gun Control is essentially an attempt to redress sociological problems by regulation of inanimate objects.

We agree that the present (1973) Act has some faults but basically it is sound commonsense legislation which provides substantial penalties in the case of offences against the Act. The biggest problem with the present Act is that it is not being used effectively and properly enforced. Presently the most blatant abuse of this Act is in the case of the Shooters' Licence which is sold like postage stamps in contravention of s.22 (5) of the Act which states:-

The Commissioner shall not grant an application for a Shooter's Licence unless he is satisfied that the applicant is of good character and repute, is a fit and proper person to hold a Shooter's Licence and can be trusted to have firearms, not being pistols, in his possession and to use and carry these without danger to the public safety or to the peace.

The Association and its members have made submissions to the Premier, the Minister for Police and Emergency Services and local members on this matter many times in the past — as far back as 29th August, 1977. In the Sydney Sun of 19th October, 1979, the Officer-in-Charge of Police Firearms Registry was reported as having publicly criticised the procedures for issuing Shooter's Licences. In spite of these past warnings, up to the present day, nothing has actually been done to rectify this unsatisfactory state of affairs. Indeed, many people are not actually aware that there is already a *Firearms and Dangerous Weapons Act* and it may come as a surprise to many at this Seminar that there has been an average of 1,000 charges a year brought before the courts for violations of this Act (see Annexure A, pages 81-82). By reference to Annexure A and considering it in relation to the proliferation of violent crime occurring in this State, it is clear that some aspects of the present Act needed to be reviewed in that the Act was not being effectively employed to prosecute criminal and dangerous elements in our society and/or to deny them access to firearms.

The 1985 Amendment Bill recently passed by the N.S.W. Parliament comprises 61 pages of amendments to a 93 page Act. The amendments are at present almost meaningless as they are dependant on regulations as yet undefined. The 1973 Act has 30 pages of regulations but perusal of the Amendment Bill indicates that the regulations will probably treble in size. The thrust of the Amendments and embryo regulations as outlined in the Minister's explanatory notes and press releases, indicate that the Government has set out to inflict a

bureaucracy of worthless and unworkable regulations on legitimate collectors, shooters and firearm owners, and has distorted the entire objectives and thrust of the original Act.

The Amendment Bill requires or introduces the following:-

1. Registration of all firearms — other than certain firearms such as antiques and collectors' firearms of classes as yet undefined. Detailed studies overseas, such as those carried out by Chief Inspector Greenwood of the Metropolitan Police Force at Cambridge University proved that gun registration does not work and serves no useful purpose. We also consider it an invasion of privacy and a diversion of valuable police resources into interfering with the legitimate interests of shooters and collectors. Professor Harding, in his book *Firearms and Violence in Australia* states there must be effective safeguards with regards to any police firearms registers.

According to Police Minister Crabtree's statement to the *Sydney Morning Herald* on 8th July, 1980, and 3rd August, 1980, the new police computer was being set up to file information such as Maritime Services Records, the case law library, Fire Brigade records and criminal indexes, along with firearms registration data. Apparently the computer will be directly or indirectly accessible by many Government departments and employees from various areas and backgrounds providing a ready-made "shopping list" for informed criminals and/or targets for Government instrumentalities opposed to the private ownership of firearms.

2. Collectors' Licensing and Conditions to be imposed on firearms collectors.

To be permitted to collect but not use firearms is the same as permitting the ownership of vintage cars, claiming a registration fee and then not permitting them to be driven. The Sydney Colonial Muzzle Loading Club has its own rifle range where they hold regular shoots and competitions with collectable longarms, just as the vintage car clubs hold rallies. Our Association is principally aimed at promoting and supporting collecting of firearms. However, many of our members regularly or infrequently shoot their arms on rifle ranges and private properties without causing harm or affront to anyone.

3. The new restrictions on the sale of firearms and ammunition require more increases in paperwork and permits of extremely dubious merit. Moreover, the Government's new regulations as outlined, do not allow for firearm collectors to purchase ammunition on their collectors' licences. However, the essential criteria for many arms to be defined as "antiques" is dependant entirely on the commercial availability of ammunition — including cartridges and components of ammunition. There are many aspects of the amendments as passed or understood to be part of the supporting regulations which will not in any way, contribute to public safety,

The requirement to obtain a permit to remove a collection items from the premises specified on the licence does not constitute a method of crime control, but involves more bureaucratic red tape and a considerable expense. Our members regularly bring their arms to our monthly meetings and taken them to exhibitions. To be a collector and student of arms history, and to give benefit of our collections to the public requires free movement to other collectors' residences, exhibitions, organised events and dealers.

but will merely serve to persecute and penalise honest citizens who have an interest in firearms.

This present Government is supposedly trying to de-criminalise victimless crimes, and by so doing reducing the burdens and demands on the legal system, to improve efficiency and ensure impartiality in the administration of Justice. However, in respect to the private ownership of firearms, it has now reverted to the "Police State" mentality in its approach to the criminal and irresponsible misuse of firearms. The Government's inaction on the irresponsible issue of Shooters'

Licences, and failures in the law enforcement, justice and penal systems, has been seen as a justification for the imposition of some form of extensive gun control, which is contrary to these aims and objectives. Regardless of the credibility, sensibility and honesty of its owner, the inanimate weapon has been singled out for Government control despite history and experience which prove that these methods are an ineffective and inefficient use of police and justice systems resources. Reference to **Annexure A** and other works such as the Bureau of Crime Statistics **Research Report No. 2 on Armed Robbery** (Dec., 1977) shows that handguns which have been required to be registered, and therefore, theoretically well controlled in this State since 1927, are still readily available to criminal elements and are used in some 40% of armed holdups.

The Government Member for Riverstone, Mr Amery, has stated in the Legislative Assembly that "this proposed legislation will afford the police a substantial charge on which to arrest a person who might be a criminal and is found with a firearm unlawfully in his possession." (*Hansard* LA93 28/2/85.) This concept is contrary to the basic principles of justice in this country. We request an opportunity to speak on these matters in the general discussion segment of the Seminar.

ANNEXURE A

Details of persons charged for offences under The Firearms and Dangerous Weapons Act, 1973, (Gazetted 1975) as per Court Statistics prepared and published by the N.S.W. Bureau of Crime Statistics.

OFFENCE Courts of Petty Sessions	NUMBER OF CASES RESOLVED						
	1976	1977	1978	1979	1980	1981	1982
Use/carry unlicensed Pistol	35(7)	13(2)	15(1)	15(4)	22(2)	18(1)	19(1)
Purchase Possess unlicensed Pistol	54(5)	74(11)	77(11)	53(3)	61(6)	51(2)	44(3)
Carry Licensed Pistol without Lawful Excuse	3	5	6			3(1)	3(1)
Unlicensed Blank Fire Pistol Offences	40(5)	11(1)	15	10(3)	13	8	11
Unlicensed Antique Pistol Offences	2		1			2	2
Carry/Use firearm unlicensed shooter	145	243	252	223	233	179	135
Possess loaded firearm in a public place	21	52(1)	83(2)	147	184(5)	168(3)	132
Possess loaded firearm to place others at risk	3	16(4)	21(3)	27(5)	17(3)	5(1)	9(1)
Use firearm in or near public place	151(2)	188	210	218(1)	189(3)	180	220(2)
Carry/Use firearm in a dangerous manner	23(1)	27(1)	26(2)	37(3)	42(3)	42(3)	57(1)
Enter enclosed lands/building with firearm	31	25	53(1)	83	61	39(1)	40(1)
Fire firearm in enclosed lands/building	8	10	25	21(1)	30(2)	26(1)	32
Carry/Use firearm under influence of drugs/alcohol	76	48	103	91	80	77	89
Possess firearm where previously convicted or found consorting	26(2)	46(11)	43(10)	80(12)	45(9)	63(6)	62(9)
Possess defaced firearm/spare barrel	3	2(1)	2	4	4	2	1
Possess firearm when under Prohibition Order		3	2	4	1	5	1
Carry arms in Unlawful Assembly					1		
Possess Prohibited Weapon	13(1)	32(1)	51(1)	36	49(6)	50(2)	70(1)
Possess/sell Prohibited Article/Offensive weapon	23(1)	62(1)	47(3)	56(5)	47(1)	69(3)	63(4)
Shorten firearm to convert to pistol	46(—)	3(—)	10(—)	31(—)			
Deal in unlicensed pistol	13(—)	21(—)	22(—)	28(2)	24(1)	17(—)	9(—)
Fail to keep safe pistol/firearm	10(—)	20(1)	20(—)	21(—)	30(—)	40(—)	28(—)

Sell/transfer firearm to person under 18	4(—)	1(—)	4(—)	4(—)	4(—)	6(—)	3(—)
Mentally ill or under influency D or A	3(—)		2(—)	1(—)	1(—)	1(—)	2(—)
Sell firearm to person prohibited from possessing a firearm				1(—)	46(2)	71(6)	60(5)
* Armed with intent to commit offence				*1			
Other	30(2)						
TOTAL	763(26)	903(35)	1090(36)	1191(39)	1184(43)	1122(30)	1092(30)

HIGHER COURTS	1976	1977	1978	1979	1980	1981	1982
i.e. charged on indictment							
Unlawful use/possess pistols/firearms	4(1)	8(5)	2(1)	2(1)	5(4)	20(11)	16(10)
Other firearms offences	1(—)	5(—)	1(1)	—	3(2)	3(—)	1(—)
* 1977 Possess firearms with intent to commit indictable offence 1 offence — withdrawn							

NOTES:

1. These statistics relate to number of cases heard and resolved not necessarily whether guilt was established.
2. The figures in brackets denote the number of cases which resulted in a sentence of imprisonment.
3. Some charges may have actually been brought under the Crimes or other act, but this data is a comprehensive listing of firearms related offences as prepared by the bureau up until 1984 as resolved by the courts.
4. Higher Court charges are those which the primary indictment was a firearms offence as listed in the statistics for Higher Courts. The specific offence and whether it was brought under the *Firearms and Dangerous Weapons Act* or the *Crimes Act* is not identifiable. Nor if indictment on a firearm related offence secondary to another indictable offence.

ANNEXURE B

ARMS AND MILITARIA COLLECTORS' ASSOCIATION OF NSW COUNTER SUBMISSION TO APPENDIX A TO MR. ANDERSON'S PAPER

Appendix A to Mr Anderson's paper is essentially a reprint of his Press Release of 19 September 1984.

This press release was presented to our association representatives at the meeting with Mr Anderson held on 8 October 1984. This Counter Submission was forwarded by us on 15 October 1984 and has not been acknowledged or addressed by the Minister.

SUBMISSION ON PROPOSED AMENDMENTS TO THE FIREARMS AND DANGEROUS WEAPONS ACT, 1973

Dear Mr Anderson,

1. Subsequent to our meeting with you in your office on Monday 8 October 1984, we would like to submit to you our dissatisfaction with certain of the proposed amendments to this Firearms and Dangerous Weapons Act, that have been outlined by you.

2. The Committee and Membership of this Association are responsive to responsible legislation that would be effective in countering firearms misuse and the potential for their misuse, however, the proposals as presented appear to have been poorly researched and developed, and cannot be supported. The whole concept of the proposals sets out to treat responsible adults within our community as naughty children.

We agree that the present Act has some faults but basically it is sound commonsense legislation which provides substantial penalties in the case of offences against this Act. The biggest problem with the present Act is it is not being used and enforced.

Presently the most blatant abuse of this Act is in the case of the Shooter's License which is sold like postage stamps in contravention of Section 22 (5) of the Act which states:-

"The Commissioner shall not grant an application for a Shooter's Licence unless he is satisfied that the applicant is of good character and repute, is a fit and proper person to hold a shooter's license and can be trusted to have firearms, not being pistols, in his possession and to use and carry these without danger to the public safety or to the peace."

We have made submissions to the Premier, your office and local members on this matter many times in the past, together with the fact that most reports of violent crime involving firearms make no mention of charges under this Act.

Our detailed comments on the proposals are as follows:-

1. **Registration of all Firearms.**

Apart from detailed studies overseas, such as carried out by Chief Inspector Greenwood and documented in several books which prove that this does not work and serves no useful purpose. We consider it an invasion of privacy. Professor Harding in his book "Firearms and Violence in Australia" states there must be effective safeguards with regards to our firearms registers.

2. **Extension and Rationalization of Shooter's Licencing Provisions.**

(a) Agreed.

(b) Testing agreed, however, what will constitute good cause and secure safekeeping facilities for firearms is yet to be defined and conceivably

could mitigate against genuine shooters and collectors obtaining a licence other than by appeal and also involve considerable expense for the owner to install and the police to inspect safekeeping facilities.

- (c) Agreed with reason.
- (d) Agreed. Already in present Act.
- (e) Agreed in principle. Provisions already are contained within the present Act but is a licence for juniors really necessary.

- General.*
1. The shooter's licence was to enact control by licencing the shooter instead of licencing guns, in accordance with recommendations resulting from overseas studies, why do we have to have both?
 2. These proposals in general should already be in force to accord with Section 22 (5) of the present Act.

3. Collection of Firearms.

To be permitted to collect but not use firearms is the same as permitting the ownership of Vintage Cars, claiming a registration fee and then not permitting them to be driven. The Sydney Colonial Muzzle Loading Club has its own rifle range where they hold regular shoots and competitions with collectable weapons, just as the vintage car clubs hold rallies. Our Society is principally aimed at promoting and supporting collecting of firearms, however, many of the members regularly and irregularly shoot their arms on rifle ranges and private properties without causing harm or affront to anyone.

The requirement to obtain a permit to remove a collection item from the premises specified on the licence does not constitute a method of crime control but involves more bureaucratic red tape and a considerable expense. Our members regularly bring their arms to our monthly meetings and take them to exhibitions. To be a collector and student of arms and history and to give benefit of our collections to the public requires free movement to other collectors' residences, exhibitions, organised events and dealers.

- (a) Extends the provisions covering the present antique pistol collectors' licence to long-arms without covering reproductions of antique weapons nor allowing for firing of these arms. The question of safekeeping requirements has not been amplified but must be reasonable.
- (b) Our Association has proposed an advanced collector's licence to the Government previously as a means of streamlining the present administrative process associated with the granting of ministerial permits for prohibited weapons and to give legal recognition to collecting firearms other than Antiques as being a legitimate interest.

Whilst the Government's proposal gives the recognition requested they are using it within the new framework to limit our activities and tie us up in unnecessary bureaucracy.

The \$50.00 per 3 years and the requirement to register each gun at \$2.00 each is discriminatory and unfair.

- (c) Covered by discussion above.

4. Purchase of Firearms.

- (a) Agreed.
- (b) More bureaucracy, doesn't establish a procedure for private sales as was a limitation of the present Act in regard to long-arms. What does it achieve? Does it also require a notification of Acquisition and Disposals as with the Pistol licence? Is there also a requirement for a permit to move after purchase?
- (c) What will eventually be defined as good cause and prescribed reasons?

We fear this may become so tight by regulation that the only way a person could get a licence is by appeal to the court.

5. Other Amendments.

- (a) Agreed.
- (b) Does not allow for the legitimate interests of cartridge collectors! What is an "Appropriate" Shooter's licence?
- (c) What about persons living in remote areas and collectors who wish to obtain an item of specific interest from Intra and Interstate?
- (d) The present Act Section 42 states:-

(1) A person who has a pistol or spare barrel in his possession shall take all reasonable precautions to ensure the safekeeping of the pistol or spare barrel.

Penalty: In the case of a pistol \$500 or imprisonment for 6 months, or both; in the case of a spare barrel, \$200 or imprisonment for 3 months, or both.

(2) A person who has a firearm, other than a pistol or a speargun, in his possession shall take all reasonable precautions to ensure the safekeeping of the firearms.

Penalty for an offence under this subsection: \$200 or imprisonment for 3 months, or both.

As far as we are aware no one has ever been charged under this Section of the Act, least of all Bank Employees, yet a large number of the pistols used in armed hold-ups have been shown to have been stolen from banks.

What the stringent safekeeping requirements are to be, are yet to be detailed. Will it require the collector to purchase a safe of an approved type as was instituted by the Police for pistol shooters?

- (e) Appears to be reasonable.
- (f) Agreed.
- (g) Agreed.

6. Penalties and Fees.

- (a) Insufficient detail to comment on, however, will the Police prosecute violent criminals with this act in addition to the Crimes Act? Will sentences be consecutive or concurrent? The present Act is not being vigorously employed against violent crime.
- (b) More revenue raising, where does it stop? A shooter's licence cost \$2.00 per year in 1975 and is currently \$5.00 per year. Now you have a \$10.00 per year shooter's licence plus a \$2.00 per gun registration fee proposed. Plus other changes. In the ACT in 1977-79 pistol licences jumped in one hit from \$2.00 per gun to \$15.00 per gun per year, what guarantee have we that the same will not occur here.

7. Transition Provisions.

Generally speaking reasonable however retrospective legislation as far as the shooter's licence is concerned is unjust and not for any crime control purpose.

8. Corporate Firearms Licences.

We offer no comments on this aspect.

9. Consultation.

The Government agreed to consultation earlier, however, with them having already stated their intentions the notice they will take of the points of view of the interested parties is very doubtful. The interest they will take in the opinions of the proposed Firearms Consultative Council and its composition is yet to be defined.

We have been offering the Government sensible advice for seven years and they have not taken any notice, so our scepticism is of the Government not the concept, why couldn't this dialogue have been arranged years ago?

OUR COUNTER SUBMISSION IS AS FOLLOWS:-

1. **Registration:**
There should be no requirement to register all firearms.
2. **Shooter's Licence:**
The present Section 22 (5) of the Act should be enforced to ensure that shooter's licences are only issued to fit and proper persons.
3. **Antique Collectors' and Advanced Collectors' Licences:**
This should be a combined licence, i.e. A Collector's Licence, at a fee of \$25 for 3 years.
4. **Shooting of Collection Weapons:**
Shooting of weapons in Collections should be permitted in the case of long-arms if the collector holds a valid shooter's licence.
5. **Permit to move:**
There should be no requirement for a permit to move. If a person holds a valid collector's licence, this licence should permit him to carry out several activities associated with collecting, e.g.:
 - (a) Take to fellow collectors/reference authorities.
 - (b) Take to Exhibitions.
 - (c) Take to Association Meetings.
 - (d) Take to Dealers for repairs.
 (Note: these activities are generally not all programmed and could involve 3 or 4 movements of arms in a week on occasions.)
6. **Intent to Purchase:**
There should be no requirement for a permit to purchase.
7. Present Provisions of the Act relating to criminal misuse of firearms be enforced against persons breaching the Act for criminal purposes.

Consultation:

A Conference should be arranged so that all interested parties can be appraised of all relevant factors so that a positive direction can be given in the matter of this legislation.

As the largest registered body in this state whose interest and objectives relate to the Collection of all firearms, as against other bodies which specialise only in antique arms, we believe that it is appropriate for this Association to be offered a position on the proposed firearms consultative council.

Yours sincerely,
S. J. Thurgar,
President,
The Arms & Militaria Collectors'
Association of New South Wales.

PRESENTATION OF PAPER

Peter Cuddy

The Arms and Militaria Collectors' Association is one of a number of bodies in New South Wales interested in Studying and collecting firearms as part of our interest in learning from and about history and preserving its lessons and artefacts. We are not speculative investors of material substance as some people have preconceived ideas of us. Our association represents the broadest spectrum of arms collecting in this State.

Professor Harding has acknowledge that collecting, although a minority interest, is a real and recognisable interest which legislation should facilitate. It has been certainly true that collectors as a group have always been difficult to fit within standard gun control legislative approaches and a satisfactory solution does not seem to have been easy to find in any jurisdiction.

The New South Wales government has given the impression it has not tried hard to achieve a satisfactory solution in this regard. It has not held discussion with our Society, or others that we associate with, other than the hastily convened meetings to give the impression of discussion and concern conducted by Mr Anderson on the 8th October, 1984. This meeting with the Minister essentially consisted of Mr Anderson dictating the principles of the proposed Amendment Bill, and both he and his accompanying research officer displaying an uncompromising attitude and a complete lack of knowledge of firearms and cartridge collecting activities.

Subsequent to the 8th October meeting the Minister has refused to acknowledge any correspondence from us forwarded directly or through his government colleagues, yet both Mr Anderson and Mr Sheahan present to you that the 1985 Firearms and Dangerous Weapons Amendment Bill is concurred by firearms' owners representative groups, other than implied anarchist, profiteering self-interested lobbyists financed by multi-nationals.

You will see from the papers distributed on our behalf here that we believe that the 1985 Amendment Bill is only a hollow shell which has the potential to be by regulation extremely restrictive of legitimate interests and pursuits related to firearms ownership; with a large proportion of the amendments criminalising activities presently carried out by collectors.

The recognition given to collectors by the government is that they will be allowed, provided that they register their firearms in a format at present undefined, and obtain collectors' licences of a type as yet undefined and at a modicum of expense they can lock themselves in the premises defined on said licence. However, if they bring a firearm from their collection out into the real world without obtaining a permit to move at a cost of \$25 or if they fire said firearms they then "might" be considered criminals and face substantial penalties.

The government has created an impression of apparent duplicity in this whole matter. The paper presented by the Attorney-General, Mr Sheahan, the State's principal law officer is not an analysis backed by statistics and records from his department as to why the 1973 *Firearms and Dangerous Weapons Act* could not be properly enforced and administered, and thus required specific radical amendments. Mr Sheahan has presented a paper on how we must forsake our materialistic world and how the Amendment Bill is a masterpiece of social reform lighting the way. There is no provision in the Bill or in the Government's statements for new initiatives against armed crime, or ensuring that increased penalties are imposed against wrongdoers, nor is there anything real or implied to promote and facilitate firearms safety and training. The Bill represents, or gives the impression of representing, the embodiment of police association and consequent Labor Party

policy to impose strict gun control in the name of crime control in a form that has been proven to be inefficient, ineffective, socially harmful, and unworkable.

Mr Wran promised new gun laws within three months of 24th May 1977, as quoted in the *Daily Telegraph* of that date. The matter has subsequently been under review for some eight years, a review of which there is no available record of its composition and deliberations and which smacks off: "Don't confuse us with facts we have made up our mind."

We believe that the real reform Act was the 1973 *Firearms and Dangerous Weapons Act* based on extensive researches, and comprehensive open minded researches, of Chief Inspector Greenwood who even fell into disfavour with his superiors for not coming up with the staff answer. Chief Inspector Greenwood's basic premise was punish the criminal not the public and impose only really workable cost effective registration systems. We are not criminals, and we believe in reasonable controls being exercised in the sale, disposition and use of firearms but we denounce the inefficiencies, injustices, interferences, and pettiness inherent in the 1985 Amendment Bill as it has been illustrated by the government to date. Stand fast that the government representatives at this seminar have indicated a more enlightened and conciliatory approach in the points they have put forward on this occasion.

DISCUSSION

Dawson Pettie, Secretary, NSW Division, Australian Bank Employees' Union.

I wish to strongly and warmly commend the government on its legislative amendments, not only from the Australian Bank Employees' Union but on behalf of all the affiliated unions of the Labor Council of New South Wales including the Police Association.

For those people at this seminar that are interested in the facts, the study commissioned by the Bank Employees' Union from Dr Paul Wilson is freely available to anybody that wishes to contact the Union Office, PO Box 435, Milson's Point, NSW, 2061.

I have for some considerable time been convinced that this sort of legislation is necessary and the proceedings of this seminar have made me even more so.

Kevin Loy, Firearms Advisory Council.

I would like to comment on the fact that a pro-gun speaker is not on the panel at this seminar. The legislation that we are discussing here tonight affects a possible 500,000 people in this State, or 57% of all households. The legislation is certainly far reaching. There has been a great deal of public comment, public meetings, demonstrations, marches on Parliament and many thousands of protests to the government opposing this legislation. I am surprised that the Institute did not see reason or caouse to invite a pro-gun speaker to the panel.

The government which introduced this legislation is represented by two Ministers, and the only other speaker, Professor Harding, is well known to the shooters throughout Australia — I think it is true to say that the shooters consider Professor Harding to be basically and fundamentally opposed to firearms.

It is true that the pro-gun people had some time to prepare papers to present at the seminar. However, there was very little time to present a substantial paper to answer a detailed submission such as presented by the Ministers and Professor Harding. Therefore I feel that we have been placed at a disadvantage in not being given sufficient time to present a better written case. One would hope that the Institute would look at these matters in a totally apolitical manner. I think it would be true that many of the pro-gun people here would be a little bit concerned at the manner in which the Institute has handled this topic. I would hope that note would be made of the comments that I have made. I think there is a strong feeling amongst many of the groups that we have not been given the opportunity to put forward the case that we would have liked to.

Chairman

I should say that the Institute accepts the justification for that expression of regret. It was originally planned that there would be another paper from a speaker who could have been fairly classified as a pro-gun speaker. This would have maintained an element of balance. Unfortunately at a comparatively late stage that paper proved to be unavailable. We were confronted with the alternative of either cancelling the seminar or allowing it to go forward. Rightly or wrongly the Committee took the view it was better to go forward in the hope that we might have, as we have had, some balancing contributions both written and oral from the floor of the meeting.

The Institute is fiercely proud of its apolitical role. Indeed I would not be participating myself if it were otherwise. The imbalance at this seminar is recognised and it is regretted. It was, however, the result of a breakdown in our plans. It was most certainly not because of any weighting of the contributors whom we approached.

Perhaps I should add, that classification of views as pro-gun or anti-gun will not, I hope, obscure the fact that all are ultimately concerned with the protection and promotion of the public interest.

Carl Vandal, Sporting Shooters' Association of Australia, Queensland.

A number of the speakers earlier referred quite correctly to the need to keep research data in an Australian context. I know that overseas data can be useful to indicate trends but we should concentrate on the local situation. An earlier speaker referred to a paper¹ I wrote a couple of years ago in which I attempted to do that and I would like to elaborate on some of my findings.

A comparative model between Western Australia and Queensland was used because these represented the two extremes in the legislative spectrum in Australia. They are opposite ends of a quite large sub-continent and they both have legislative control of pistols, concealable firearms, which go back for half a century. The main difference is that in Western Australia, as we are all quite well aware of, they have quite a stringent, even draconian, control on the possession and use of non-concealable firearms and in Queensland there is virtually no control on these particular firearms.

When looking at the conventional wisdom in firearms control we like to believe that the owning of firearms in the community has a direct relationship to the percentage of armed crime and other associated misuse of firearms. Conversely if we restrict the ownership of firearms by some legislative means the problems that these things cause will disappear.

So we get back to Queensland and Western Australia. I researched data from the Australian Bureau of Statistics for the year 1981 and I looked at homicides involving firearms and fatal accidents involving firearms. Interestingly enough, using the national average as a control Queensland had six firearms related homicides per million of population, Western Australia had six firearms related homicides per million and Australia as a whole also had six per million. That quite clearly shows that there is no real substantial difference between the experience in Australia as a whole and experience in Queensland and Western Australia.

When we look at this in terms of firearms inventory, and I used the formula Professor Harding used in his earlier work to establish the estimated firearms in the community, Queensland had one homicide per 27,000 firearms owned, Western Australia had one in 23,000 and the national average was one in 28,000. We see that despite the easy and uncontrolled access in Queensland and a totally different situation in Western Australia, Queensland was actually in a statistically superior situation to Western Australia. On the other hand whilst Queensland was marginally inferior to the national average Western Australia was substantially inferior to the national average.

Applying the same formula to shooting accidents, I found that Queensland in that year had two fatal accidents per million of population. Western Australia had three and the national average was two. So, despite the controls in Western Australia, including the safety question there which licenced applicants are required to comply with, Western Australians were 50% at greater risk than either Queenslanders or Australians as a whole.

This disparity becomes more evident when we look at the ratio of incidents to firearms owned. In this category of accidental shootings Queensland was one in 81,500 firearms owned, Western Australia one in 46,800, and the national average was one in 69,400. From this we can see that Queensland was not only markedly

1. Vandal, C.G. "Firearms Control. A Comparative Study of the Systems in the Australian States with particular reference to Queensland" (reprinted 1984. Australian Firearm Law Institute. Melbourne).

superior to the nation as a whole it was 57% better off than Western Australia.

I don't know why this is so. I am quite sure that no one at this meeting has really come to grips with this. But I believe that these figures are compelling and convincing reason to support the fact that has been earlier stated here, that there is no casual relationship between the availability of firearms in the community and misuse in crime. For that reason I believe that the proposed legislation in New South Wales will either fail through not achieving its objectives or it will be a disparate misuse of public funds and police manpower.

Bruce Hulley, Australian Firearm Law Institute; President, Australian Scientific Research Institute.

The late Professor A. Boyce-Gibson said "If it is not necessary to change, it is necessary *not* to change". The situation in New South Wales since 1973 is that this government appears to have had some difficulty in administering the legislation as it stands in the books. This Institute has read most of Professor Harding's submission and that of the Ministers and it appears that a lot of the submissions revolve around Professor Harding's data and his interpretation of that data. That there should be any change in the legislation appears to rely to a pretty fair degree on Professor Harding's findings. If Harding's findings fail then the amendments will fail.

Table 1 on page 33 quite clearly demonstrates that crime per capita in almost every category has fallen since 1973 according to Professor Harding's own data. On page 37 he made the point that no lesser an authority than the Police Commissioner estimated that the one category that had increased dramatically is armed robbery, comprising something like 80% of drug related crimes. If we take the 80% out of the 189 cases reported (**Table 1**) we are left with 302 cases and that is also a drop. It is very convenient for governments and other vested interests to distract the community from their inability to address, in this case, the drug problem, and in spite of Professor Harding's own facts then turn around and say they need to change this legislation which has worked since 1973, and that they don't really want to focus the public's attention on the 1590 drug related robberies in 1983. I think that for the government to rely on pretty loose material which is primarily emotive and not supported by facts has to be looked at rather closely.

Robert Mitton

Attorney, in your 1977 Armed Robbery Report, which was indeed a very exhaustive report conducted by your Bureau, there were seven principal recommendations. These recommendations contained such factors as TNT delivery of cash, the design of bank counters, the movements of people involved in the money market, etc. Not one of those recommendations saw a need that gun control should be tightened. I would particularly like, if I may, to ask that you offer comment on that report in relation to those seven recommendations. Why wasn't there an eighth recommendation, i.e. gun control? Did in fact Cabinet consider that report when they deliberated this issue around about the Milperra time and, in fact, has there been any further report from your department which principally sets aside those seven recommendations?

Dr Jeff Sutton, Director, Bureau of crime Statistics and Research, NSW.

Listening to the contributions to this seminar, I have begun to think that statistics are dangerous things and perhaps we might adapt the legislation for gun control to the registration of statistics and the licencing of users.

I won't attempt to address all of the points where the statistics which have been produced by various bodies and by our own Bureau have been used nor will I

comment on the last matter but leave it to the Attorney to answer at the end. Rather I would like to instead look at the question of research in this area and very briefly to look at the types of research which are available.

In the main, there are the statistics of regular collection, such as statistics of firearms registration, the use of weapons in crime. Apart from particular studies we depend upon police statistics which contain a variety of information, for example, where the weapons are used, what type of weapon and so on. Hopefully in the near future, as a result of improvements in police statistical systems, this information will be available in a form which we can refer to and be able to draw conclusions about which are rather more comprehensive than the ones that we have been able to do on the basis of particular studies.

I should also say that, in the use of these statistics there are many factors which are involved which people have not adequately commented upon in this seminar; for instance, rural versus urban figures are significant. There are differences in crime rates between rural and urban areas. There are differences in rates involving guns, and there are significant problems in making comparisons between States and parts of States because of these differences.

Another factor comes into play regarding homicide. Homicide has been mentioned because this is one crime where guns are frequently used and which is adequately documented, but it should not be forgotten that one third or thereabout of the homicide rate is domestic within the household, and is not crime in the same sense as armed robbery. Another third is between people who know each other. That is, two thirds of homicides are in fact matters of inter-relationships between people where the presence of guns, it has been argued, may have a precipitating effect although not the only one. Alcohol is another.

In considering armed robbery we ought not to place too heavy a weight upon the relationship between gun use and crime in referring to legislation of this kind. The first studies which were done by the Bureau in New South Wales were concerned with firearms incidents of a wide variety, not just those involving death or involving crime but over all types of incidents which came to the notice of the police in the ballistic squads. Regrettably, some years ago the Police Commissioners of all States meeting jointly decided to discontinue this collection of material, and the last Bureau report on the matter is now quite out of date. Indeed the last one was seriously flawed by the failure of a variety of police departments around the country to adequately report the information which was required. The Police Commissioners chose instead of improving the collection to drop it altogether. So, in fact, we don't have any statistics about the incidence of firearms abuse and the debate therefore has begun to focus rather heavily on crime when the numbers of crimes compared to the number of incidents of firearm abuse are rather small. Because of lack of information I can only make that as a tentative assertion. We need that data and we need it to be able to estimate the degree to which the legislation of all kinds throughout the country can be effective.

So far as specific studies are concerned the Bureau is again doing an armed robbery study, this time with the support of the Australian Bankers' Association. We have been working for some months now and are proposing to go again into the area which we did some years ago, but also to look more carefully at the people themselves that are committing these offences. The area of drugs and crime has also been mentioned and again we are looking into that fairly closely.

I would dearly like to launch into a discussion of the percentages which were grouped together by the speaker before the last but there is not the time and this is not the place to do so.

W. Woolmore.

I think it is pertinent at this stage to have a look at some of the arguments raised in the various debates that have taken place on the gun issue. I am not trying to sum up for the seminar but this deals with another matter and considers how the whole thing is orchestrated.

In 1920/22 when gun control was first raised in the United Kingdom the people were told that crime, robbery, was the issue (they had not got round to the accident problem at that stage) but in fact when secret Cabinet papers were released a few years ago, after the appropriate lapse of time, it turned out that crime in fact had nothing whatsoever to do with the introduction of these particular controls. At that stage the government in England was going through a fairly troublesome time, the Russian Revolution had just taken place, and, in fact, the government was starting to get worried about the British worker rising up. The secret Cabinet papers which have now been released bear this out and the whole story is there for anybody to see. It had nothing whatsoever to do with crime.

In spite of the research that has shown otherwise, we still get told that we must have these very stringent controls to fight crime, to prevent murders and suicides, prevent armed robberies, and so on, even to prevent accidents. Part of the process has been to try and blackguard the shooting sportsman because he is obviously the one who suffers with all these controls in addition to being branded generally as a member of an irresponsible group. We find that the old Freudian phrase gets trotted out that guns are a phallic symbol. That fell down, of course, when somebody pointed out to Freud that he had a cigar sticking out of his face! Shooting has been described as a manifestation of male chauvinism which, of course, it is not. Another description that "shooters are latent homosexuals" is all part of the general attempt to try and make shooters look as bad as possible.

Professor Harding himself, when he became involved in the gun issue discovered that the shooters were just part of the mainstream of society. They were not an aberrant group or anything like that, so there had to be some new ideas and believe it or not some quite irrelevant and quaint things came up. The first one was the animal welfare issue, then the quality of life issue and the so-called "safe society", and one is tempted to ask "Safe from what?" In the John Barry Memorial Lecture Professor Harding put up gun control as a public health issue. The next thing, in the paper presented to the seminar, he says it should be a feminist issue. Well, I look forward to the next paper because I feel quite sure that we are going to be treated to something really profound.

These are all furbphies and red herrings. They have nothing whatsoever to do with the gun control debate, if in fact it can be called a gun control debate, because it is only a type of control — it is not gun control. Instead of debating "gun control" we think that the real issues of our society should be addressed. What about big time organised crime getting some of this taxpayer's money directed towards it? What about high level corruption? What about things like drugs? What about AIDS? We talk about the damage that guns do. I would suggest that one person who believes himself to be in a high risk groups with AIDS who deliberately donates blood does infinitely more damage than the Milperra massacre could ever have done although the harm is not immediately obvious. Yet these are really important public health issues and they are not getting the attention which gun control is getting. I believe we should look at the real problems.

Beverly Schurr, Secretary N.S.W. Council for Civil Liberties.

The Council for Civil Liberties is on record as having supported generally this legislation and I would like to talk about that aspect, rather than the sexist aspect of the laws because I know that there have been good and bad women shooters, for

example Annie Oakley, Bonnie from Bonnie and Clyde. It all depends upon the context in which they are shooting and I am sure Annie Oakley's gun was registered.

The Council acts to support the civil and political rights as set out in international covenants and the right to bear arms is included in those covenants. We act to defend these rights because they are often not extended to people in the community and we act particularly in times when there are calls for law and order legislation and there is an extensive fear of violence, of armed crime, of drug related crime in the community as there is now. We see that as a possible erosion of civil liberties. We are not worried about the duckshooters who shoot each other occasionally out in the duck hunting season. We are concerned about the apprehension of violence in the community at large, that apprehension can reduce people's civil liberties by making them afraid to walk on the streets at night, making them hostages in their own home, but it can also lead to more repressive criminal laws and the extension of police powers. So to that extent we support the introduction of the gun control legislation because it can be seen that there are too many people at the moment who have guns who should not have them, and too many people who take recourse to them in times of domestic crisis and kill people in their family.

That is the basis of our support for the gun control legislation just as we also support other restrictions in the community such as car drivers' licencing.

Diane Bennison.

My first question is to Mr Anderson. In your paper you said 57% of households in New South Wales have guns and obviously they are legal firearms otherwise you would not have that information. Will the Advisory Council be made up of 57% of pro-gun sports people? I believe it should be because that is democratic.

The Honourable P. T. Anderson

No. It will be made up of the people who represent the interests of shooters and other people who present a different viewpoint.

It won't be done on the basis of 56% for the reason that if it is that big we will need the Town Hall.

Diane Bennison

But I am talking in percentages not numbers of people.

The Honourable P. T. Anderson

No, I am not doing it on percentages. I have told you the way I am doing it is to give adequate voice to the needs and concerns of those who are involved in shooting. There are obviously people who have an interest in collecting, there are sporting shooters, there are members of a variety of gun clubs, there are those who choose to shoot pistols rather than longarms or both, there are a whole host of people who require representation and they will have it. So too will those people who represent groups in the community such as some of the Trade Union movements whose membership are confronted with guns from time to time.

Diane Bennison

My second question is also to Mr Anderson. With firearm control it appears that most crimes are committed with illegal weapons. By registering longarms do you really believe that the criminal will leave his gun sitting there at the site of the crime so that you can pick it up and say "Oh, yes, that is his number. I will just call around at his house and arrest him". Will it make it easier?

The Honourable P. T. Anderson

I do think that the legislation as it is framed will enable us to deal with the situation of firearms that are stolen or lost.

Diane Bennison

Do you think this will create a black market?

The Honourable P. T. Anderson

No, I do not.

Diane Bennison

I believe it will create a black market as it has done in other countries.

The Honourable P. T. Anderson

The thing that fascinates me about this is that we have heard a lot about the United Kingdom, a bit about New Zealand, no one wants to talk about what happens in Western Australia, South Australia, and Victoria, and every few want to mention the United States. I spent some time in Washington talking to the Bureau of Alcohol, Tobacco and Firearms about their problems.

Diane Bennison

My point is that I believe the way the government is approaching gun legislation is an erosion of civil liberties and I object very strongly to that erosion of my civil liberties. I believe I should be well represented when these laws are made and I believe there are many people here who feel the same way. We are not a minority group. We are a majority group in New South Wales. It is obvious by the figures that have been quoted.

Paul Duffy, Secretary, Antique Arms Collectors Society of Australia (Co-op.) Ltd.

To use a phrase that Professor Harding used earlier in the evening, our Society is one of those awkward groups that unfortunately are covered by the *Firearms and Dangerous Weapons Act*.

My purpose in coming to this seminar is to hear the papers but also to make the comment that collectors are concerned to fit into a safe society, and they are also concerned to make a contribution to society. It is just unfortunate that our particular area of interest happens to come under the *Firearms and Dangerous Weapons Act*.

If I could give two instances. Last month our Society together with the National Trust put on an exhibition in conjunction with Heritage Week in OTC House in Martin Place. This exhibition was organised by our members at their own cost, it was put on for public display and it was visited by several thousand people. Some time after that there was an Antique Gun Fair at Kensington where again our Society put on a voluntary display where members' antique weapons were on view for the general public to see.

My purpose in saying this is that I feel that the collector does have something to offer to society. We assist in the research, we conserve our heritage in that we care for the antique firearms and the associated bits and pieces. We are available for reference to the Museums, particularly the Power House Museum in Sydney where we are affiliated. We do want to fit in. We don't want to be an awkward part of society.

A couple of particular items I am concerned about in relation to the new Act. Although the Minister has exempted antique firearms from registration he still has imposed on us a new procedure whereby each time a collector wants to sell or swap or transfer a weapon he has to apply through his local police station for a permit.

Similarly if a collector wishes to mount a display, say for instance like the one in Martin Place or the one at Kensington, we would also have to apply for a separate permit. In the course of say twelve months a collector may sell, swap, or trade quite a number of firearms and we feel that that is an unjustifiable imposition on our hobby. We would like to make this point to the Minister and to the people who are drafting the regulations.

In Professor Harding's paper, in regard to the figures that are quoted there I would just like to ask whether the figures cover antique or collectable firearms, or whether the figures that are quoted are all what might be called 'operative and used firearms' to use Professor Harding's own terminology? Also in his paper he refers to people who are "non users of firearms" and, in a sense, I suppose collectors are non users in that they don't shoot them, their purpose in using them is to collect them and assist in their research.

One final point is that the Bill also prohibits the mail order purchase of firearms which we presume is going to extend to collectable arms and antiques. Most collectors acquire their arms through mail order auction catalogues from London, New York, or America or from dealers in Australia. We just feel that that again is an unnecessary imposition on our interests and we would like to draw that to your attention.

The Honourable P. T. Anderson

With respect, two of the statements are incorrect. This is the great tragedy. All the way through the consultative phase I indicated we were going to have the Consultative Committee. That they would have a role to play in the preparation of the regulations and for this very reason: that group raised the issue of antique ammunition which had never been raised in 3½ years. There were changes to the original Cabinet approval by Cabinet after consultation with the groups. And this is the great tragedy with this debate. The ideas that are spread throughout the gun using community of what is going to happen — that is the very reason we are having that Committee so that there will be consultation, so the matters can be raised, so that the regulations are drafted in such a way as to not unnecessarily interfere with people be they collectors, shooters or otherwise.

Dr G. D. Woods, Q.C. Deputy Public Defender.

I must say I was taken with the rationality of the last speaker whose carefully put views seem to have some relevance, and indeed seemed to have had some impact on the Minister at some stage, but I was not much impressed by the reference to some of the speakers to some rather bizarre notions. The reference I thought to AIDS, and to the possible concern of the New South Wales Government with this problem in contradistinction to ignoring the problem of guns seems to me a little bit absurd. One might just as well criticise the New South Wales Government for not being concerned with the famine in Ethiopia or the melting of the polar icecap.

The reality is that guns are a serious issue in this community and they are being apparently seriously addressed by the government. The suggestion that those people who are unequivocally in favour of guns and all they stand for are in a majority in the community is wrong. This government is a government which, like all governments in Australia, is elected and it has to be sensitive to those who have voting rights. I do not believe that this government is going to cut its throat by alienating a great majority of the people who are particularly concerned about a major issue.

My sense of community feeling about this issue is that certainly in urban areas people do worry about crime. They worry about crime committed by guns. The

views expressed by the Bank Officers' Association, and the police themselves about the use of guns in the community and the fear that guns engender is very real and I think that people who argue there is a majority of people who want to have unrestricted *laissez-faire* with guns are just politically wrong, they are not sensing the community position.

Now I rank myself among those who simply don't like guns. My work involves the criminal courts and I appear frequently for people involved in murder charges and manslaughter charges where there is a gun involved. It frequently happens that it is not an unregistered gun. It is a registered gun. It just happens to be in the house at a time when there is a coincidence between a bit of alcohol, a drunken husband, a bit of domestic tension, and that is the classic formula — it is not necessarily your traditional bandit with a mask and a striped shirt.

The notion which the Attorney puts forward in his paper on a safe society is one which doesn't depend upon which statistics you ought to follow. We have seen from the gun lobby here tonight a multiplicity of areas of representation: various Institutes, Committees, Associations, and so on, all of which are perfectly legitimate — their views are being put here strongly at this seminar and that is perfectly good. This is what this Institute of Criminology is all about; rational debate. But it doesn't follow that you can point to one particular set of statistics about the subject and say "That is the answer" and this is reflected in the position the Attorney has adopted in his paper. If I am interpreting it correctly, and I don't know what his personal views are, but if the views in the paper reflect his personal views he is reflecting his understanding of the community position. The community position, as I understand it at the moment, is some concern about guns; a wish in a rational, careful and responsive way to control them a bit more tightly, not to abolish them, and people who suggest that that is the position he is taking are I think wrong. I think they would be well advised to get into the Act, to consult, to use the opportunities at the dinner after this session to talk with people, to talk with the Ministers, to have an input and make a contribution and that seems to me, with respect, to be the purpose of this seminar.

F. A. Pelbart, Solicitor and field shooter

As a trained lawyer I would respectfully agree that the Amendment Bill is a substantial work in legislation and that a great deal of thought has gone into it. It would also appear that the Bill has recognised the wisdom of certain groups or classes of persons being committed to continue to have access and to use firearms in a lawful manner.

My study of the Bill seems to indicate that those groups which are already recognised are those classed as rural property owners, members of registered clubs, and professional shooters or such persons the pursuit of whose livelihood requires use of firearms such as security men. In coming to that conclusion I simply rely on s.22 (5) (B) of the Act to which specifically recognises the rights of those persons. It seems that other parts of the Bill recognise that collectors ought to be able to keep their guns and Minister Mr Anderson was kind enough to make special reference to special collectors' licences for permits for one or two people.

It is difficult to say what proportion of the firearms fraternity, if one might call it that, are here specifically represented or what percentage of those people who would like to continue to have firearms have their interests recognised specifically under the Bill. However, there is one class of persons who would like to continue to use firearms in the legitimate and lawful manner are field shooters or hunters of which I happen to be one. I studied the Bill to find something in it which would give me comfort of being able to say to myself and to many responsible members of the community whether field shooting or hunting will continue to be recognised as a

valid cause to hold a shooter's licence and, regrettably, I have found nothing there.

Therefore, a very large proportion of persons who belong to the shooting or firearms fraternity in a lawful manner have a deep seated concern about what will happen to their interests in the future. This concern, in my view, is not capricious because when one looks at the Act there is nothing in it specifically recognising the interests of field shooters. Secondly, I am unaware of an unequivocal indication by either Mr Anderson or Mr Sheahan or what the intention of the government is in relation to that issue and it is this uncertainty of the field shooters or hunters which in my submission greatly enhanced the misunderstanding and the fierce opposition which the government is encountering to its Bill. I would in the circumstances urge and request either Mr Anderson or Mr Sheahan either at this seminar or some other time to put that portion of the firearms fraternity at rest (who I would describe as field shooters or hunters) by indicating whether their desire to hold and use firearms for field shooting or hunting purposes will be recognised as a valid cause to have a firearm, and if so what restrictions will be placed on the numbers of firearms which they use in the legitimate pursuit of that sport. I trust very much that if such a declaration were to be made that portion of the shooting fraternity, that I would describe as field shooters and hunters would welcome it and change what appears to be fierce opposition to the amendments.

The Honourable P. T. Anderson

I am delighted to answer the question for the 500th time. I congratulate those who are responsible (I am not suggesting are necessarily in this room) for the myth they spread and for the damage they did with it.

The reality is, and I can only say this with respect — I am only a lowly ex police prosecutor — that Schedule 7 of the Bill has transitional and saving provisions which quite clearly indicate that if you are lawfully in possession of a licence issued under the Act prior to the 1st September 1984 you are deemed. I do not know how many times I have got to say it. I do not know how many times I have got to tell all the deputations that if your reason for owning a firearm is to shoot street signs or some kid's pet horse in a paddock you won't get one. If it is to go shooting on somebody's property where you have permission to shoot on their private property, of course you'll get it. One of the gun clubs whose club house is in my electorate for whom I have rigorously campaigned, I now find successfully, to get them funded for additional facilities, and I think it would be a very strange thing for somebody to do this who didn't intend for them to keep going. I think it would be strange for me to drive from Emu Plains to Terry Hills to open a field competition day and even have a shot of a gun. I mean that is the reality. There has never been any intention nor is there a mechanism to stop people from undertaking proper use of their firearms for hunting and all those other activities. What we are seeking to do is to make people think about the use of the gun and we are deeming those who hold licences to be valid. It will be those who seek after that date. We will ask them some simple things about whether they understand about firearm safety and put the question to them as to why they want the gun.

Richard Willis, President of the Australian Shooting Association.

I am also President of the NSW Shooting Association and that Association gives me the right I believe to be speaking for the target shooters. I also represent the target shooters at the International Shooting Union and represent them to the Australian Olympic Federation.

Firstly, I must say that when I read the papers I was very concerned about the general divisiveness — the attempt to paint the "gun lobby" as being a very one dimensional group of people. The comments at this seminar would tend to indicate

that there are many diverse opinions, all honestly held and most of which have been put to Mr Anderson over the period of consultation. As far as the group of people that I represent are concerned we believe we have had a reasonably good hearing. There are two areas that we are most unhappy about and these have been put to the Minister in our discussions.

Firstly, we are unhappy about the penalties, and secondly, we are unhappy about the registration of long weapons.

The organised long term firearms organisations have been talking to the government in this State, particularly the Sporting Shooters' Association which is an affiliate of both the ASA and the NSW Shooting Association and has the constitutional requirement in our organisation to speak on general legislative matters as it affects the recreational shooter, and we have said for a long time that it is not really right that people should be able to walk in off the street without reasonable cause to own a firearm and without having had any safety training in its use. We are not against unreasonable reform of the Firearms Act, we are against unthinking reform.

I was disappointed at the logic put forward by many of the speakers. We have almost got the standard of logic made famous by that gentleman who wrote the book *Chariots of the Gods*. You first of all pick a fact, you then make an assertion, and you then draw a conclusion, however irrelevant. The example of his work is there are pyramids both in Mexico and Egypt, the assertion is that they are too far apart for the people to have got together in ancient times, and the conclusion is that therefore they must have been trained by people from outer space! We have had quite a lot of that standard of thinking in the discussion particularly on the second area to which we are opposed i.e. the registration of long guns.

There has been no conclusive evidence that registration has any effect on the criminal element. For instance, over the last 20 years the population of target pistols in this State has probably increased twentyfold. There has not been a statistical increase in the crimes effected by target pistols — in fact they have probably gone down because of the increased requirements for safe keeping of pistols in this State. In fact, there is fairly common comment that the greatest cause of illegal use of a licensed pistol in this State is those stolen from police officers rather from target pistols that are misused. The situation in Japan is also one that should be considered. We tend to throw away overseas experience but there we have a situation where private ownership of handguns is almost prohibited. Yet the Colt 45 is the favourite weapon of the Japanese gangster, and it has become a major social problem in Japan despite a total absence of a population of weapons to steal or get lost.

The problem we have here in registration is that we are going to waste a considerable amount of all our resources. Somebody is going to have to pay for it and it is going to be all of us. The real problem is what we should be trying to solve, not the perceived problem, and the real problem is the illegal pool of weapons as in Japan. We support tighter control as to who should have a weapon, we support safe keeping, we support training but the particular issue of the registration of long guns and the fact that the penalties for the illegal use of firearms are not strong enough is something that we do not countenance.

Peter Hall, Solicitor

I was a farmer until I was 24. I was then a solicitor, which I still am, practising in the city and of the last eight to ten years on the North Coast. Over that period of time I have also been quite an adamant collector owner of firearms and used them extensively in the field.

The wording of the legislation itself has given the field shooter quite justifiable

cause for alarm. The aspect not only of character and repute, ability to keep firearms safely but all of those other requirements particularly ss.42, 43, 48 through to 51 that are required to be maintained, one comes to wonder what else a person has to do to establish that he is not a danger to the public or to someone else's property.

The three groups that are stipulated in the new requirement of "good cause" are quite restrictive, particularly in view of the fact that one of those refers to rural property owners as opposed to occupiers. The other refers to the members being a member of a club or an association the members of whom shoot at targets. When that is added to the fact that there is now provision under the new legislation to restrictively endorse long arms, one is justifiably concerned that just as with the requirements for obtaining a pistol licence (from which this provision of s.22 is taken directly) that the endorsement won't also be placed on the licence for long arms.

The Honourable T. W. Sheahan

I will be brief in reply. Nothing that has been said at this seminar has distracted me from the general background or perspective nature of the paper that I presented. I just wanted to say though that all the issues that seemed to have been raised in debate at this seminar were raised by the Minister in discussions in the Cabinet on this matter. The Cabinet gave the matter long and detailed sympathetic consideration and as a result has come to the conclusion that he is pleased to defend on this occasion.

In answer to the only specific question directed to me, I do not advocate that this legislation is THE answer to the armed robbery question. I think that has been made clear by the many contributions that have been made, notably that by Dr Sutton and others shortly after the question was asked. Thus the non-inclusion of this legislation as the eighth suggested remedy in the 1977 report does not seem to me to be terribly relevant to this debate. For that purpose I would yield the balance of my time allotted to me both to Mr Anderson and to Professor Harding to whom more substantive and relevant questions and comment have been directed.

The Honourable P. T. Anderson

I think with regard to the last speaker, one should look at the comments I made in my opening remarks about s.22. I think that in this section reference is made to valid reasons for having guns or being licensed without limiting its generality. Under the approach that was adopted in this legislation, the regulations which will be drafted in consultation with the Committee to be flexible, to enable issues that perhaps aren't readily identified to be dealt with by that forum and to make recommendations to me as to changes that ought to be undertaken.

I ought to put my own position in context because a number of people seem to have the view that I am violently anti-gun. I carried a gun every day of my working life for ten years. I went hunting during my teens, although I have not done it since for a whole host of reasons; one is a lack of time but it is also something that no longer appeals to me. I am used to firearms, and as I indicated in answer to a question, I am involved with a gun group within my electorate and I have been with others. If somebody is proposing to bring in total prohibition that seems to me to be a strange way to do it. That type of emotive comment does not help rational debate on the issue, but that has been the story of the issue whilst I have had carriage of it on behalf of the government — people have sought to frighten other people. I think that that is unfortunate, because the reality was that after two days of consultation with some fourteen or fifteen groups we reached a position where certainly there were several things that particular groups, antique collectors and others, were concerned about, which could be addressed, but the bottom line was that everyone

did not like registration. Apart from that there were things that they could see were justifiable, and I am delighted that there are people at this seminar who apparently support the old Act because Coroners were not very much in support of it after things that transpired. They received some publicity so that should be known to people. In the Industrial Commission also there were comments about problems with the Act which have been addressed in this legislation.

I do not think that people really appreciated how easy it was to go and get a shooter's licence. In making that comment, what I am saying is not that people ought to be stopped but that they ought to go to the police station nearest their home to apply for a shooter's licence. How anybody can argue against that is beyond me, because if that had been the law certain events would not have transpired, but to turn that around into a proposition that we seek to invade people's homes and take guns off them just defies one's belief.

The issue was raised about the relationship between the police and the community and I agree that what Ronald Hyne had to say. I know that he firmly believes in what he said. But there is no greater supporter of the concept of community policing in Australia than I have been, and will continue to be, but to make that sort of statement about what effect this legislation will have on that relationship denies the reality about random breath testing. I do not know too many people who are really delighted with it, but the mail that comes into my office since the 17 December 1982, almost to a letter, is in praise of the police who are undertaking a job they don't particularly want to do but they do it well and the public support them despite the inconvenience. I support them, despite the fact that they have stopped me three times and I have had to have a breath test. But the fact is that it saves people's lives, not necessarily through what we would call basic criminality but through irresponsibility and stupidity.

We are concerned about dealing with that problem as we are about the criminals with this legislation. For example, I doubt if there has been a duck shooting season in New South Wales where somebody hasn't been shot, and I do not believe you ought to ban duck shooting for that reason. The experienced people know about firearm safety, but we ought to be saying to those who are taking up the sport, think about the issue when you are getting through a three strand barbed wire fence or climbing over a gate. Similarly, adequate safekeeping of a firearm does not mean propping the bedroom door open with it so that a child can get access to it — you ought to take the bolt out of your rifle. It is fine for everyone here to say we do that anyway, but there are people in the community who do not do it. All we think ought to happen is for people to address that issue. These are the sorts of things that are happening, not to break people's doors down and take their guns away as was suggested following the Penrith meeting. The only proviso that affects this is domestic violence, and why should not we have a provision whereby if the police go to a domestic violence incident and one of the combatants says there is a gun in the house that the gun should not be taken away for a prescribed period and then returned if a prohibition order is not sought. Such commonsense action may save somebody's life in a moment of reckless stupidity, and we heard from an experienced lawyer exactly how that takes place in reality.

Concerning the issues raised by Mr Cuddy, I am not really sure what he is going on about. We met with the groups. They raised issues. The issues were taken back to the Cabinet in accordance with a commitment that I made with everybody. I do not believe that at any time that I departed from that. The legislation was not drafted before I had consultation with Mr Mitton and others. It was being drafted after the Cabinet approval. When we had the Cabinet approval I met with the groups, and, indeed, I went back to Cabinet. Anybody who was involved in that consultation knows that the original proposals were changed. We determined that

the best way to deal with issues like antique ammunition which had been raised in the consultative phase was with a flexible wide ranging regulation-making power. Then if there were similar issues which after three years of concentration I had not even thought of, we did not have to wait two or three years to amend the legislation to cover such situations. I believe that all the groups who came to see me believed in what they were had valid issues and that there ought to be representation on the Consultative Committee to give adequate representation to all those points of view. To ask me whether 57% of the people on the Committee will be on one side or the other is just not on. What I am going to do is to represent the issues of shooters on the Committee. I could have made my life very easy during the debate and during the protest, but I chose not to do that and the legislation has been through the Parliament. A Committee will be established and we will undertake the process of preparing the regulations, of monitoring the system to ensure that effect is given to the intention of the government. That intention is to deal with the problems of criminals and irresponsible shooters and not to unnecessarily infringe upon the rights of people who legitimately and sensibly undertake their sport or their occupations so far as it involves firearms.

I ask every reasonable person at this seminar to sit back and watch what happens over the next 12 months and then see if the concerns that have been so often expressed since the legislation sought to be introduced become a reality — I will be most surprised if they do.

Professor R. W. Harding

I seem to have a lot of answers to give to various questions that have been put to me. Obviously at this stage of the seminar I cannot deal with all of them but I will pick some of the more important ones.

In their written paper Mr Bullivant and Mr Linney objected somewhat to my citation of Canadian experiences. It is very interesting to me to observe here the oft expressed distaste for overseas experience except when it happens to be Colin Greenwood or the 1922 legislation or whatever. They suggest that I am only telling half the story when I am referring to the Canadian experience.

What I have done on page 47 of my paper is refer to the most professional evaluation of the implementation of the new firearms control scheme that has ever been carried out in the English speaking world. If you are really interested in what is happening, what is likely to happen, and what issues ought to be identified and monitored, you ought to be interested in Canadian evaluations of this type. The items that I cite tell us that in a situation in relation to long guns, where you move from virtually no control of who gains access to them to some control (not unlike the 1973 New South Wales shooters' licence system), then even that makes an impact upon gun crime rates. Even a porous gun control law such as that has a beneficial social effect. There were the same people in Canada making the same pleas that their liberties were being interfered with, not thinking about the social patterns which were thereby being beneficially affected, exactly the same as here; and what has happened in Canada is what will happen here. The recent Canadian survey of popular opinion on this matter shows an overwhelming majority in favour of tightening further Canadian gun control laws. Porous ones have made a beneficial impact. Let's have some even better ones says the community. That is why I cited Canadian experience. If those of you who have written against the legislation or those of you who have dismissed overseas experience out of hand are seriously interested in evaluating these issues and following data and facts where they lead you rather than superimposing patterns, you should be reading the Canadian evaluation. It is the most professional yet done. I hope New South Wales will manage to do a similar evaluation.

Mr Woolmore drew attention to the fact that I had identified shooters as part of the mainstream of Australian social life. I wish Mr Woolmore would do me the same compliment instead of pursuing me in the way he has from Perth to Melbourne to Sydney and so on. Nevertheless, I enjoy jousting with Mr Woolmore, if only because he can always be relied upon to produce an unsustainable proposition of the following sort: "the ultimate long range purpose for registration is confiscation!"

Let us examine what is happening in Australia. This is documented because I trade in facts — I went to a lot of trouble to get facts because I hoped that people may benefit from these.

South Australia: Page 41 of my paper shows what has happened in the context of a piece of legislation which is closely analogous to the legislation which has now been introduced in New South Wales. These South Australian figures can be regarded as most satisfactory, even though the increase in both licensed shooters (14.3%) and firearms are running ahead of population increase, 3.2%, during the four year period. It should be noted that first, there was probably a small element of picking up a lag of shooters and guns which should have come to notice in 1980 and second, that the increase is less than the overall rate of increase in Australia. On the other hand, the shooting community as a whole has not been unduly inhibited in its access to firearms. That is what has happened in South Australia, and that is what I suggest will happen here and I am bolstered in this view by the Minister's statement in this jurisdiction.

I cannot let Mr Hyne's comments go unanswered. My Hyne says that he does not like emotive or colourful language. I think he probably likes it very much because he kept talking, as did Mr Woolmore, about the "massacre", a very emotive word, at Milperra. I did not use that phrase. It was something in Mr Hyne's head and Mr Woolmore's head. I have talked about a "shootout" at Milperra, and a shootout is a very factual word. Like all writers who are used to deal with an audience one tries to actually capture their attention. Now, with Mr Hyne I failed. He only got to the third page of my paper and could not see the purpose of figures relating both to the increase in gun crime and to community attitudes about it.

Yet Dr Woods has correctly identified the importance of community attitudes. The community is concerned and it thinks that the answer is not more guns but a proper balanced regulation of them.

I will now draw my remarks to a close by saying this. I have listened to the Minister. I have not been privy to the way he has been developing his legislation. I am most impressed by his willingness to be flexible, by the machinery of a regulation-making power, those regulations to be drafted only after consultation with interested parties. I believe that there is wide community support for this kind of gun law. It should be evaluated and continue to be monitored; but those of you who make it a political issue and imagine you can bring down a government on the basis of this are fooling yourselves.

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