

Canada's 1995 Gun Control Legislation: Problems and Prospects

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**ROUGH DRAFT
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Abstract

We discuss Canada's universal gun registration legislation (Bill C-68), passed in December 1995. It has been plagued by a variety of problems: delays in coming into force, huge cost overruns, need to cut fees to encourage compliance, massive problems with its computer systems, stubborn resistance by anti-control groups, and the fact that eight of 10 provinces refused to participate in administering the new law. To hide the overruns, the federal government resorted to "back door" financing. While the latest deadline for registration of all long guns and hand guns was July 1, 2003, it is not clear that universality was achieved. For one thing, the official estimate of the stock of guns is almost far below the actual number of guns in private hands. We explain that, like almost all previous gun control legislation in Canada, Bill C-68 reflects a persistent kultur kampf and opportunistic behaviour by politicians.

Presented at the annual meeting of the American Society of Criminology, Adams Mark Hotel, Denver, CO, Nov. 18 - 21, 2003.

"The registry is an astonishing nadir of dysfunction. To squander the respect for law that people have is the worse kind of vandalism."

John Dixon, president of the B.C. Civil Liberties Association and former Department of Justice official.

At the same time that Canada is promoting stricter gun control in the UN, Canada's own gun control laws are an expensive failure. Introduced in 1995 with a promised net cost of two million dollars (Canadian), the nation's gun registry is expected to cost over a billion dollars, according to an authoritative report from Canada's Auditor General. The AG's report details pervasive malfeasance by the Liberal administration. Many Canadians who have no personal interest in gun ownership are now turning against the deceit and self-dealing of the Liberals.

Auditor General's Report/Financial Scandals

On December 3, 2002, Auditor General Sheila Fraser released a scathing report. "This is certainly the largest cost overrun we've ever seen in this office," she said (Auditor General, 2002). Commentators are calling the registry, "the billion dollar boondoggle." Two other studies of the registry in 2003 confirmed the disaster in the Department of Justice (Naumetz, May 7, 2003). According to a report obtained by the Globe and Mail, there were "virtually no records" in government files related to the funding of many advertising contracts (Leblanc, 2002). In an attempt to regain public support, the ill-fated registry was taken away from the DOJ and transferred to the Solicitor General with the same budget.

One reason for the spending disaster, although hardly the only one, was the government's use of "back door financing," rather than following normal budgeting procedures. Numerous "supplementary estimates" were submitted each year to avoid the requirement to report to Parliament. Secrecy bred unaccountability. One firm apparently billed the government twice for nearly identical reports -- at \$500,000 a pop (CBC, 2002). The same firm, Groupaction Marketing, was paid \$330,000 for a communications strategy on firearms registration that was neither requested nor received by the Justice Department (CTV, 2002). A high-ranking registry official spent more than \$200,000 commuting between Western Canada and Ottawa in just two years (Breitkreuz, June 25, 2003; Harris 2003). In fact, registry apparatchiks ran up \$13 million in travel expenses in only a few years (Naumetz, Jul 15, 2003). The Auditor General asked the RCMP to investigate Groupaction to determine if there were criminal charges to be laid concerning their getting \$1.6 million in federal government contracts (Bowman and Ward, 2002).

A few days after the Auditor's report was released, a routine request for additional funding of \$72 million for the firearm registry fortuitously came before the House of Commons. In an

unprecedented move, the government was forced to withdraw the request when numerous Liberal backbenchers, criticizing their own government, threatened to vote no. Critics pointed out that the government was lying in its claim that the appropriation was money that had already been budgeted, rather than a supplemental appropriation. If the government had not backed down, the Liberal leadership might have lost the vote, which would have forced an election. (Naumetz, Dec 11, 2002)

This rebellion from the Liberal backbench is extraordinary in a Canadian context. Canadian MPs have much less freedom than do their peers in other parliamentary systems, for a Canadian MP can be easily removed by his party's leadership if he or she steps out of line. The Liberal MPs' defiance of Liberal Prime Minister Chretien suggests that they no longer fear him or his Cabinet. The government eventually managed in March to get Parliament to vote for additional funds, but only by threatening to call an election (MacCharles, Mar 26, 2003).

Since 1993, MP Garry Breitkreuz, a member of the Canadian Alliance party, has been critiquing the registry and its failures. So it was not surprising that he urged the government to end the gun registry before more money is lost: "How can you keep a program going without money? If you withdraw money for it, that means you don't have confidence in the registry. The registry should be scrapped."

The Canadian Alliance is joined by the Progressive Conservative party, in opposing the gun registry.¹ The PC's waffled on the issue of Bill C-68 in earlier debates, but they have now seen how unpopular it has become. So it was not surprising that the PC's would demand the resignation of Industry Minister Allan Rock, since Rock had been the Justice Minister (1995-97) who pushed registration through Parliament, against the advice of his own Justice Department bureaucrats, while declaring "The only people in this country who should have guns are police officers and soldiers." Likewise, there were calls for the resignation of Health Minister Anne McLellen. McLellen was Justice Minister from 1997 till January 2002, during the period when cost over-runs were especially pronounced.

What was shocking was that Liberal backbenchers Benoît Serré (Timiskaming-Cochrane, in northern Ontario) and Alex Shepherd (Durham, Ontario) demanded Rock's resignation. While promoting registration in Parliament, Rock had promised to end the program if costs exceeded \$150 million. Liberal Prime Minister Chretien has said that he wants to hold office until Spring 2004, but party pressure is forcing him to leave much sooner, probably immediately after the Liberal party leadership convention in November 2003.

¹ There are four other opposition parties in the Canadian Parliament. The other two are the New Democratic Party (the NDP) and the Bloc Quebecois. The NDP is split over the registry between its rural and urban wings, while the BQ officially supports the registry, it had to suppress internal dissent from its rural wing.

The events in the House followed another setback for Chretien in the normally placid Canadian Senate. Canadian Senators are appointed by the Prime Minister. So, they predictably support the governing party. They are usually about as supine as the decrepit House of Lords in England.

Yet on November 26, the Liberal-dominated Senate took the rare step of voting to split a bill on the Criminal Code. Provisions amending the Firearms Act were divided from a comprehensive animal welfare proposal. This may sound innocuous, but it is amazingly bold for the Senate. Splitting the bill means delaying its passage through the Senate, which eventually led to the Senate's action actually voting down the animal cruelty bill (C-10A). The last time the Senate even tried to split a bill was 1988, and the effort failed that time. On December 9, 2002, the House, amazingly, acquiesced to the Senate's action (Government of Canada, 2002).

The Senate continued its defiance of the Liberals by recently killing two bills by that Chretien had made important campaign promises (Curry, 2003). The Senate voted to amend them, which means that they must return to the House for another vote, but since Chretien decided to prorogue Parliament in anticipation of the Liberal leadership meeting in November, this effectively killed all bills that hadn't been passed by both houses of parliament (including C-10A).

Martin Cauchon, the current Justice Minister, vowed that the government would continue with firearm registration, which even includes most air guns. Canada's experiment to register all firearms in the country had been scheduled to be fully implemented by January 1, 2003. But, due to funding problems, and massive non-compliance on the part of firearm owners, the target date was postponed until June 30, 2003 (Naumetz, July 1, 2003).² Except for a brief period during World War II, rifles and shotguns have never been registered, and never have air guns been registered.

Canadians tolerate more onerous gun laws than Americans. Handguns have been registered since 1934. Eleven thousand registered handgun owners are currently missing from that system. At present, nearly two-thirds of all owners of registered handguns have not obtained firearm licences as required by law (Breitkreuz, Sept 11, 2003). Canadians have far fewer handguns per capita than do Americans. But hunting is almost as popular in Canada as in the US. Between 20% and 35% of households in Canada have at least one rifle or shotgun, and many others have air guns (Mauser, 2001; Mauser and Buckner, 1997; GPC Research, 2001).

A close reading the Auditor General's report shows that the problems in the firearm registry are even worse than the billion dollars overrun. An exasperated Auditor General complained that the registry audit was the first time her office had to discontinue an investigation because the government prevented the Auditor from obtaining the necessary information. The Auditor General was appalled not only at the "astronomical cost overruns," but also by the flaws in the system that made it impossible for her to know the real costs. "We stopped our audit when an

² Of course, this target date only concerned the 70,000 gun owners who already had a valid licence and who had filed a letter of intent with the government prior to December 31, 2003.

initial review indicated that there were significant shortcomings in the information provided. We concluded that the information does not fairly represent the cost of the program to the government" (Auditor General, 2002).

The Auditor General's damning report underestimated the total cost of the disastrous registry. It did not even include the costs of the other governmental agencies that are working with the Department of Justice to implement firearm registration. Together these cooperating agencies have spent almost as much as Justice on registration. The federal government has been underwriting the costs of the Royal Canadian Mounted Police, Indian Affairs, Citizenship and Immigration, the Attorney General, the Office of the Privacy Commissioner, and the provincial and territorial governments. If all these costs are considered, the total cost will soon top two billion dollars.

Nor do these costs include enforcement costs or compliance costs. Estimates suggest that it would cost taxpayers another half-billion dollars to take even 10% of gun owners to court (Breitkreuz, Oct 21, 2003).³ And of course, none of these figures include compliance costs, i.e., the costs borne by individuals or society to comply with these onerous and time consuming regulations.⁴

Sheila Fraser saved her strongest criticism for the way the government deliberately misled parliament: "The issue here is not gun control. And it's not even astronomical cost overruns, although those are serious. What's really inexcusable is that Parliament was in the dark." The government knew about the mismanagement problems in the firearm registry years ago, but stonewalled questions from MPs such as Garry Breitkreuz (Saskatchewan) whose requests for financial information were refused on the grounds of "cabinet secrecy" (Auditor General, 2003).

The National Post, one of the two national daily newspapers in Canada, opined that that the firearm registry was typical of this administration. The Liberal government has been caught wasting billions in one ministry or another nearly ever year since the last election. The Post summed it up by saying, "The latest audit extends a catalogue of Liberal arrogance, incompetence and profligacy that beggars belief. Unfortunately, it is also gradually beggaring the country" (National Post, December 5, 2002).

Veteran Liberals, though, shrugged off the Auditor General's report. After all, these are the leaders who made a big show of taking a bus to their first day of work, in order to show their

³ "The research paper estimates that the average cost of a conviction for a non-criminal code incident under the Firearms Act is \$3,107. The average cost of a conviction for the most serious offence under the Firearms Act would be \$9,828. Therefore the Total Net Costs of 100,000 convictions would range between \$310 million and \$982 million" (Breitkreuz, October 21, 2003).

⁴ "The truth is the Library of Parliament released three studies that show that complying with this useless gun law has already cost gun owners between \$367 and \$764 million and that enforcement costs will cost at least another billion," (Breitkreuz, October 21, 2003).

support of public transportation and cost-cutting. As soon as the crowd was gone, they hopped into the government-chauffeured limousines that were awaiting them out of sight of the cameras. Prime Minister Jean Chretien said, "Yes, there were cost overruns. It was more than we expected, but the system is in place and it's a good system, and it's good for Canadian citizens." Patrick Gossage, a veteran Liberal spinmeister, told the Ottawa Citizen that Auditor General reports never cause serious political problems: "We are inured to overruns on governmental programs." There is some support for his cynicism. Each year the Auditor General announces scandalous waste in one department or another of the Liberal government, and the media and the voters get upset for a day, and then move on (Fulford, Dec. 6, 2002).

Organizational Problems

Costs aside, the registry is a mess. Millions of registry entries are incomplete or incorrect. There is a backlog of over 130,000 guns for which registration forms have been filed, but which not been entered into computer databases and no registration certificate has been issued. Over thirty-thousand guns have been backlogged for more than a year.

The government promised to fix the problems identified by the AG last December, but solutions appear elusive. On February 21st, Martin Cauchon, the Minister of Justice, after meeting with the Ministry's advisory group, the User Group on Firearms, announced an "Acton Plan" to deal with the troubled federal firearms program. Unfortunately, the Minister chose to ignore almost all of their recommendations and to appoint a new more "Liberal-friendly" Advisory Committee (Breitkreuz, July 31, 2003).

Despite conducting two additional studies of the troubled registry and re-locating the registry in the Ministry of the Solicitor General, serious problems remain. The RCMP continue to have serious doubts about the validity and usefulness of the information it contains (Breitkreuz, Sept 23, 2003).

Data theft from registry offices - most recently in Edmonton - is a bonanza for terrorist and other criminals seeking to create fake identities (RCMP September 1, 2003). A computer crash recently lost thousands of owner's records (Canadian Press, June 5, 2003). Screening is so poor at the firearms registry, one imaginative Canadian even managed to register a soldering gun without the officials in Ottawa knowing that it wasn't a 'firearm' under the Canadian criminal code (CNEW, 2002).

Supporters of the registry argue that the overrun was not that bad for such a good program (Naumetz, Dec 11, 2002). Unfortunately for anybody taking this tack, there are no actual successes to tout. Not one crime has been solved by the registry. Allan Rock claims that the registry has saved 1,240 lives a year, but non-partisan Canadian criminologists such as Philip Stenning scoff at this assertion. (Stenning teaches at the University of Toronto's Centre of

Criminology.) The firearms suicide rate has declined, but total suicide rates have stayed constant since 1990, since firearms have been replaced by other methods (Wente, 2002). Statistics Canada reports that the number of suicides have actually increased by 480 per year between 1991 and 1999.

While the homicide rate in Canada has been gradually declining since the early 1990s, before the gun registry law was introduced, the homicide rate began to increase again in 2001 and it increased again in 2002 (Dauvergne, 2002; Savoie, 2003). Criminologists believe this any decline is probably due to the aging Canadian population. The percentage of firearm homicides involving handguns has doubled in the same time period, and gang-related homicides have tripled (Dauvergne, 2002). Overall firearms homicides have risen 15% in the last five years (Savoie, 2003). Canadian large cities, e.g., Toronto and Vancouver, are suffering an unprecedented wave of gang murders and bank robberies are on the increase (Bolan, 2002; Jenkins, 2003; Pynn, 2003).

 CDN vs US homicide and crime trends

Gun prohibition supporters shrug off rising problems with gang violence, saying that this legislation was targeted at normal people who misuse firearms, not criminals (Ha, Dec 7, 2002). But in fact, spousal homicides, which had been slowly declining, suddenly jumped in 2001 and remained high in 2002. The spousal homicide rate is now as high as it was when the firearm registry was introduced in 1997 (Savoie, 2003). Domestic homicides have gone up 28% in the past three years (Savoie, 2003).

Kultur Kampf

The real success of the Canadian registry is not in reducing crime, but as a maneuver in a culture war against traditional Canada. The Coalition for Gun Control, the Canadian gun prohibition lobby, views reducing gun ownership as a good in itself. The Liberal government exploited the anger of the CGC and "women's" groups to gain political advantage by playing urban dwellers against rural Canada, immigrants against traditional Canadians, and men against women.

The introduction of the bill was primarily motivated by partisan strategy.⁵ In 1995, Allan Rock and the Liberals introduced universal firearms registration principally to gain strategic political advantage for themselves and for their party. Despite this, it was useful to claim that this policy

⁵ The section below relies upon Mauser, Gary. "The Politics of Gun Control: Comparing Canadian and American Patterns," *Government and Policy*, 1992, Vol 10, pp 189 - 209, and W T Stanbury, "Notes on the Politics of Gun Control in Canada: Bill C-68," January 14, 2003.

was introduced based upon a solid policy analysis and was very popular. The Liberals used "political marketing" techniques in an effort to convince the Canadian public that this policy was both popular and endorsed by the "experts."

The firearm registry is "symbolic politics" at its worst. The Liberals exploited a key "galvanizing event" to rally public opinion: the December 6, 1989 murder of 14 female engineering students at the École Polytechnique in Montreal by a man with a Ruger Mini-14 rifle. The killer had been licensed as a gun owner under existing gun laws. The Montreal Coroner's Office concluded that the particular gun type played no role in the crime, since just as many victims could have been killed with almost any hunting rifle. The Coroner reported that the police and emergency dispatch response was utterly inept, as police and operators argued about whether the call should have been directly transmitted to the police. The police were not told which building to go to, and the police did not enter the building until eight minutes after the murderer had killed himself, still having 60 rounds of unused ammunition (Jones, 1998; MacDonald, 1990).

The new Firearms Act (Bill C-68) was introduced to gain a strategic advantage. Despite the initial lack of public support, there were solid strategic reasons for introducing additional gun control legislation. The Liberals are pragmatic enough to appropriate issue positions from the opposition if they believe that adopting [or even appearing to adopt] such positions will keep them in office. The Liberal Party of Canada has earned the sobriquet of the "only natural governing party of Canada." Throughout the nineties, the Liberals have been under pressure from both the Reform Party and the Progressive Conservatives. Reform was attracting political support from voters to the right of the Liberal Party because of its positions on both the economy and criminal justice. Reform stressed the importance of balancing the budget as well as 'getting tougher' on violent criminals. These policies were attractive to many voters, particularly in Western Canada. In response, then Finance Minister, Paul Martin, was dragging the Liberal policy to the right on budget cutting and taxation. This did not sit well with traditional Liberal voters.

As strange as it may seem, the Progressive Conservatives were threatening the Liberals from their left at the time. Under their youthful leader, Jean Charest, the Progressive Conservatives were attracting support from young urban voters in Central and Eastern Canada. Not only was Charest a "red Tory," but his youthfulness threatened the much older Liberal leader, Jean Chretien.⁶ One of the reasons the Liberals thought was the PC's had made inroads in urban Canada, was their reputation as having passed strict new gun laws (Kim Campbell's Bill C-17). Given the greater political importance of Central Canada (Ontario and Quebec), the Liberals decided the PC's constituted the more dangerous threat. Realistically, they could afford to lose the "Western" vote, but they couldn't lose the "urban" vote. The young urban voter was, and is, at the heart of the Liberal constituency. What better way to counter any perceived "drift to the right" on economic policy, than by taking a strong position on a symbolic issue, such as gun control, that appealed to their youthful urban supporters? Moreover, there was considerable

⁶ Illustrative of just how loosely party labels are linked to ideology, early in 1998, Charest resigned as leader of the federal PC's to become the Leader of the Quebec Liberals.

support for universal firearm registration within the federal Justice Department since it would create a large number of jobs.⁷ Thus, the Liberals could simultaneously pose as fiscal conservatives and act to expand the Ottawa bureaucracy.

Perhaps more importantly, Allan Rock, then Justice Minister was looking for an issue to ignite his drive to succeed Jean Chretien (Fife 1993, 1997; Fisher 1994). The Justice portfolio has traditionally been prized as a stepping stone that can lead directly to the Prime Minister's office (Crosbie 1997: 269). It could not have escaped Rock's attention that gun control appealed more strongly to the heart of the Liberal support in urban Canada than did fiscal conservatism.

Because Canada's gun licensing system was already quite strict, with a host of new controls introduced by the Progressive Conservative government after the Montreal massacre, the extra benefit of the registry (keeping track of precisely which rifles and shotguns a licensed person possesses) is virtually nil.

Chretien touts gun registration as the foundation of "a culture of safety," but the results are just the opposite. The Ontario Police Association opined that the money should have been spent to put more police on the streets (Jenkins, 2003). Indeed, the registry money could have put a thousand more police on the streets for a decade. Ontario's Public Safety Minister argued that said the money should have been used to go after handgun criminals on the urban streets, rather than "the farm widow who has a shotgun in the attic" (Gunter, Feb. 2003)

Nonparticipation

There has been massive disobedience with respect to firearm registration. Only five million long guns have been registered so far (Breitkreuz, July 5, 2003; Naumetz, Jul 1, 2003). Estimates of the actual gun supply range from 7.7 million (the government's preferred but implausible number) to over 25 million rifles and shotguns in Canada, plus an unknown number of air guns (GPC, 2001; Smithies, 2003). The best estimate of the number of firearms in private hands in Canada is 12 - 13 million (Mauser, 2001).

Many Canadians have refused to either get a firearms licence or to register their firearms. Estimates of non-participation ranges from 10% to over 50% (Mauser, 2001). Estimates of non-participation rates among Aboriginal Canadians is even lower -- less than 25% of aboriginals are estimated to have complied with the firearms act (Breitkreuz, August 7, 2003; Naumetz, Jul. 23, 2003). One band in BC has even decided, in defiance of Ottawa, to issue its own firearm licences (News Services, 2003).

Twenty-five thousand supporters of the Law-abiding Unregistered Firearms Association and the Canadian Unregistered Firearms Owners Association have publicly declared their refusal to

⁷ At the same time that over 44,000 public sector jobs were lost in Ottawa, the number of employees in the Canadian Justice Department actually increased (Government of Canada, 1993 budget).

register (LUFA and CUFOA, 2003). Despite repeated efforts to be charged, members have been so far unsuccessful (CUFOA, 2003). Although the national government has told provincial police to start hunting down unregistered gun owners on January 1, 2003, the Attorneys General of eight of the ten provinces have announced that they plan to put no effort into looking for gun-owners who have not registered, because there are more serious crimes to address (Lindgren, April and Tim Naumetz, 2003).

Conclusion

In Canada, registered gun owners must report a change of address to the police, but convicted violent felons do not. Registered gun owners must surrender their privacy, consenting to government "inspections" of their home to verify registry information, but the Liberal government is afraid to violate the privacy rights of child molesters or people with restraining orders or who have had their firearm privileges revoked (Breitkreuz, May 9, 2003). While the government makes inaccurate lists of who owns which gun, the Correctional Service lacks the funds to track parolees who fail to report. And Immigration Canada cannot afford to keep track of 36,000 violent offenders who have been ordered deported (Auditor General, 2003; The Province, 2003).

Trend in Canadian Police Budgets

Chretien's dilatory attitude towards violent criminals and his fierce attitude towards gun owners mimics his policy toward terrorism. While Chretien refuses to restrict terrorist fund-raising operations in Canada, he has used terrorism as a pretext to expand government surveillance of all ordinary Canadians. His Canada Customs and Revenue Agency wants to build a new government database to record all foreign travel of Canadians - even what they eat on an airplane. He is also pushing a biometric national ID card, which would require every Canadian to submit to a retina scan and fingerprinting (Robinson, 2003). This program is estimated to cost between and \$4 and \$7 billion, and can't be expected to be any more accurate than the firearm registry. The money spent on the gun registry was not spent on the Coast Guard, which recently announced that it is unable to defend Canada's shores against terrorists.

Alternatively, putting the money into Canada's puny military, whose pilots must fly 40-year-old helicopters, might have really promoted a "culture of safety."

Four thousand new women's shelters could have been with the registry money. It says a lot about the so-called "women's groups" that they advocate for a gun registry, rather than for more effective use of government resources. The groups certainly do not speak for women like writer Claire Joly, who advocates fighting back against violent criminals, rather than persecuting men (Joly, 2003).

The money spent on the registry could have bought hundreds of new MRI machines, or thousands of nurses, or home care for many tens of thousands stuck in Canada's ailing health care system. The money could have brought modern clean water and sanitary sewage systems to 45 First Nations reserves (that's Canadian for "Indian reservation").

If Chretien and his ministers were officers of an American corporation, they would be easy prosecution targets. Having obstructed the first audit, Chretien now claims to support everything the audit says. In 2003, two separate studies commissioned, one by KPMG, and another by Hession (Dawson, 2002). A skeptical Parliamentary Committee, though, threatened that it will conduct its own investigation. In January 2003, it was announced that the Registry would be transferred to the Office of the Solicitor General from the Justice Department. At that time, the Solicitor General promised a full accounting later this year, but he has not yet done so (Easter, Oct 9, 2003).

It's not working. Even columnists who dislike guns, such the Margaret Wentz of the Globe and Mail, are describing the Liberal response as the "despicable defence of the indefensible" (Wentz, 2002). The scandal lasted weeks in newspapers across the country, with many commentators who had been previously committed to gun control, were now furiously denouncing the Liberals and the registry (Wentz, 2003).

Polls have show that a majority of Canadians, like Americans, support gun registration in the abstract. But when the public is presented with cost figures and trade-offs, support declines precipitously. Support has fallen from a high of 75% in 1995 to under 40% in 2003 (Breitkreuz, October 2003).

Canada will soon have a new Prime Minister and an election is anticipated in 2004. The Liberals hope a new face, Paul Martin, will allow them to win office for the fourth consecutive time. However, the Liberals face a united and renewed Conservative Party in the upcoming federal election. In a historic move, the Progressive Conservatives and the Canadian Alliance (formerly the Reform Party) have decided to re-unite in order to train their guns on the Liberals. This will be the first time the two parties have agreed to put aside their differences since they fell out back in the 1980s when Brian Mulroney was PM.

Both conservative parties oppose the registry and promise it will be a campaign issue. In previous elections, the gun registry cost the Liberals many seats in the Maritimes and the Prairie provinces. In the next Canadian election, the people may vote for a Conservative government which will toss the registry on the ash heap of discarded lies, while retaining most of the rest of Canada's strict gun control laws.

File: ASC 2003 paper
Word count: 4,395

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