HOUSE OF COMMONS
CANADA

REPORT OF THE SPECIAL COMMITTEE ON THE SUBJECT-MATTER OF BILL C-80 (FIREARMS)

John H. Reimer, M.P.
Chairman

February 1991

REPORT OF THE SPECIAL COMMITTEE ON THE SUBJECT-MATTER OF BILL C-80 (FIREARMS)

John H. Reimer, M.P.
Chairman

February 1991

HOUSE OF COMMONS

Issue No. 12

Thursday, January 17, 1991
Friday, January 18, 1991
Monday, January 21, 1991
Tuesday, January 29, 1991
Wednesday, January 30, 1991
Wednesday, February 6, 1991

Chairman: John H. Reimer, M.P.

CHAMBRE DES COMMUNES

Fascicule nº 12

Le jeudi 17 janvier 1991
Le vendredi 18 janvier 1991
Le lundi 21 janvier 1991
Le mardi 29 janvier 1991
Le mercredi 30 janvier 1991
Le mercredi 6 février 1991

Président: John H. Reimer, député

Minutes of Proceedings and Evidence of the Special Committee on

Subject Matter of Bill C–80 (Firearms)

Procès-verbaux et témoignages du Comité spécial sur l'

Objet du projet de loi C–80 (armes à feu)

RESPECTING:

Subject matter of Bill C–80, An Act to amend the Criminal Code and the Customs Tariff in consequence thereof

INCLUDING:

The Report to the House

CONCERNANT:

Objet du projet de loi C–80, Loi modifiant le Code criminel et le Tarif des douanes en conséquence

Y COMPRIS:

Le rapport à la Chambre

Second Session of the Thirty-fourth Parliament, 1989-90-91

Deuxième session de la trente-quatrième législature, 1989-1990-1991

SPECIAL COMMITTEE ON THE SUBJECT MATTER OF BILL C–80 (FIREARMS)

MEMBERS

CHAIRMAN : JOHN H. REIMER

VICE–CHAIRMAN : PIERRETTE VENNE

Doug Fee
Ken Hughes
Russell MacLellan
Robert Nault
Ian Waddell
David Worthy

OTHER MEMBERS WHO PARTICIPATED :

Warren Allmand
Bud Bird
Dawn Black
Derek Blackburn
John Cole
Dorothy Dobbie
Suzanne Duplessis
Louise Feltham
Darryl Gray
Deborah Grey
Rey Pagtakhan
George Rideout
René Soetens
Guy Saint–Julien
Scott Thorkelson
Brian Tobin
Benoît Tremblay

CLERKS OF THE COMMITTEE :

Bernard G. Fournier
Stephen Knowles

FROM THE RESEARCH BRANCH OF THE LIBRARY OF PARLIAMENT:

William C. Bartlett, Research Officer
Nancy Holmes, Research Officer
Philip Rosen, Senior Analyst

Published under authority of the Speaker of the House of Commons by the Queen's Printer for Canada.

Available from the Canadian Government Publishing Center, Supply and Services Canada, Ottawa, Canada K1A 0S9

Publié en conformité de l'autorité du Président de la Chambre des communes par l'Imprimeur de la Reine pour le Canada.

En vente: Centre d'édition du gouvernement du Canada, Approvisionnements et Services Canada, Ottawa, Canada K1A 0S9

ORDER OF REFERENCE

Extract from the Votes & Proceedings of the House of Commons of Friday, November 23, 1990:

It was ordered,—That a Special Committee of the House of Commons be appointed to study the subject-matter of Bill C-80, An Act to amend the Criminal Code and the Customs Tariff in consequence thereof;

That the said Special Committee shall have all the powers of a Standing Committee pursuant to Standing Order 108(1);

That the said Special Committee be composed of eight members, to be recommended by the Striking Committee; and

That the said Special Committee make its final report to the House no later than Friday, February 15, 1991.

ATTEST

ROBERT MARLEAU
The Clerk of the House of Commons

TABLE OF CONTENTS

Page

RECOMMENDATIONS OF THE COMMITTEE

RECOMMENDATION 1

The Special Committee recommends that the present procedures set out in the R.C.M.P. National Firearms Manual for screening FAC applicants be applied uniformly by every firearms officer across Canada, and that this application be strictly enforced. (Page 9)

RECOMMENDATION 2

The Special Committee recommends that all future FACs must bear the photograph of the holder. (Page 11)

RECOMMENDATION 3

The Special Committee recommends that the requirement that all new FAC applicants provide the firearms officer with the names of two references be adopted as proposed by the government, provided that the makeup of the prescribed class is constructed to ensure that everyone has a reasonable opportunity to fulfill the requirement. (Page 11)

RECOMMENDATION 4

The Special Committee recommends that the proposed $50 fee for the issuance of a first-time FAC be adopted subject to confirmation by the Canadian Advisory Council on Firearms that such a figure is justified. (Page 11)

RECOMMENDATION 5

The Special Committee recommends that all FAC applicants between the ages of 16 and 18 years have the consent of a parent, or person having custody or control of the applicant, before there is any processing of the application. (Page 11)

RECOMMENDATION 6

The Special Committee recommends that that portion of section 106(3) of the Criminal Code, which requires that any training requirement be proclaimed province by province, be repealed forthwith. The Committee recommends that the remaining requirement be imposed nationally on all first-time FAC applicants as soon as possible. This should be done after consultation with the provinces, but in any event no later than June 30, 1992. The training requirement should also be amended to provide that all first-time applicants must successfully complete a course covering the competent and safe handling of firearms, and knowledge of firearms control laws. These courses must conform to national standards. Successful completion of a course would entail certification by a qualified instructor that the applicant met the national standards. (Page 12)

RECOMMENDATION 7

The Special Committee recommends that the legislation provide that an FAC will be issued only after a 28-day waiting period and after the successful completion of the implemented mandatory national competency and safety course. (Page 13)

RECOMMENDATION 8

The Special Committee recommends that a renewal procedure be established for those who wish to obtain another FAC after having gone through the full screening process recommended for first-time applicants. FACs under the new system will continue to be valid for a period of 5 years, and applications for renewal will have to be made either before the expiration date or within a reasonable period thereafter. A renewal procedure could be initiated by mail, but the renewal applicant would be required to appear in person to pick up the new certificate, and to have a current photo taken. While only a minimal check of criminal records and local police files would be necessary in all but unusual cases, the firearms officer would retain a discretion to conduct a further investigation, including requiring a personal interview, in appropriate circumstances. (Page 14)

RECOMMENDATION 9

The Special Committee further recommends that in those cases where the renewal application was made after the expiration of the FAC, but within a reasonable period thereafter, the firearms officer would also have the discretion to require the applicant to demonstrate competency on a basis similar to that applying to transitional applicants. (Page 15)

RECOMMENDATION 10

The Special Committee recommends that the fee for a renewal be set at $10, subject to confirmation by the Canadian Advisory Council on Firearms that this figure is appropriate. (Page 15)

RECOMMENDATION 11

The Special Committee recommends that those who hold an FAC when a new screening system is implemented be permitted to renew their FAC when it expires pursuant to the rules pertaining to renewal. The Special Committee further recommends that there be a transitional period of two years after a new system is implemented during which those who own firearms but do not have a current FAC can obtain one under special rules. Specifically, they should be allowed to fulfill the recommended competency requirement for first-time FAC applicants without having to take a training course. The Special Committee has suggested several ways in which this might be accomplished, but it will be the ultimate responsibility of the government to ensure that a fair and workable system is devised. (Page 16)

RECOMMENDATION 12

The Special Committee recommends that only a single level of training be developed as part of the FAC process, and that this single level of training be as comprehensive as necessary to deal with all firearms. (Page 17)

RECOMMENDATION 13

The Special Committee recommends that when the training requirement which we recommend is fully implemented, the Canadian Advisory Council on Firearms monitor its development. (Page 17)

RECOMMENDATION 14

The Special Committee recommends against the proposal that an FAC be required to purchase ammunition. The Committee believes that the problems inherent in implementing such a system would make it unworkable. The Committee further believes that its strengthened FAC package will be more effective in regulating firearms use in the interests of public safety. (Page 18)

RECOMMENDATION 15

The Special Committee recommends that the proposed power of revocation set out in Bill C-80 be dealt with pursuant to the present firearms search and seizure provisions of the Criminal Code. In this way, a peace officer would require either prior authorization from a court to seize an FAC, or authorization subsequent to the seizure in those circumstances where the danger to safety was so great that it was impractical to secure prior authorization. In either case, the matter would immediately be brought before a court for a hearing of the case. It is the view of the Special Committee that because of the seriousness of firearms misuse, any finding by the court that the seizure of the FAC was warranted should result in the revocation of all firearms privileges for a period not exceeding five years. (Page 19)

RECOMMENDATION 16

The Special Committee recommends that all firearms manufactured as fully-automatic weapons, but converted to fire as semi-automatics, be prohibited as proposed by Bill C-80. (Page 22)

RECOMMENDATION 17

The Special Committee recommends that all present legal owners of converted automatics, who do not turn them in during the initial amnesty proposed in Bill C-80, be required to register them by a pre-determined cut-off date, and be allowed to retain them as restricted weapons for a specified period. During this period, the registered owners could sell them to the Government of Canada for the purpose of eventual destruction. The method of valuation would be recommended by the Canadian Advisory Council on Firearms. (Page 23)

RECOMMENDATION 18

The Special Committee further recommends that, other than the Government of Canada, only properly qualified genuine gun collectors would be permitted to accept a transfer of these firearms during the specified period, and when that period expired, only such collectors would be permitted to renew these certificates. Qualified genuine gun collectors would then be allowed to retain these converted automatics so long as they maintained their status as such, and subsequent transfers of these firearms would be limited to others so qualified. (Page 23)

RECOMMENDATION 19

The Special Committee recommends that, in addition to the prohibition on converted automatics, a prohibition be imposed as soon as possible on the further importation and sale of all semi-automatic firearms found by the Canadian Advisory Council on Firearms to fall within the military and para-military class. (Page 26)

RECOMMENDATION 20

The Special Committee further recommends that those military and para-military firearms presently in private hands be subject to the following four options. The present owners could turn them in during an amnesty, sell them to a licensed collector, or become a licensed collector, and all such firearms held by a licensed collector would be registered as restricted weapons. If the present owner elected to retain these firearms without becoming a licensed collector, that person would be allowed to do so provided that the firearms were registered as restricted weapons, subject to any future transfer being limited to a licensed collector. (Page 26)

RECOMMENDATION 21

The Special Committee further recommends that the Canadian Advisory Council on Firearms be asked to undertake a comprehensive re-evaluation of all other semi-automatic firearms presently available in Canada, or which anyone might import in the future. Those found to be inappropriate for hunting purposes would become restricted weapons. (Page 26)

RECOMMENDATION 22

The Special Committee recommends that the Canadian Advisory Council on Firearms develop a definition of "genuine gun collector" and the conditions which should attach to the maintenance of such a status, and that the Department of Justice devise regulations to implement the definition and conditions of application. The Committee further recommends that a collector's licensing system be considered, having regard to the Committee's suggested criteria. The Committee further recommends that the regulations be laid before the House of Commons and referred to the appropriate Committee before being implemented. (Page 28)

RECOMMENDATION 23

The Special Committee recommends that section 116 of the Criminal Code be amended to authorize the application of safe storage requirements to all firearms owners. The Committee further recommends that the Department of Justice, in consultation with the Canadian Advisory Council on Firearms, design and implement regulations providing for safe storage standards that are appropriate in various circumstances and can be complied with by the owners affected by each standard. The Special Committee also recommends that the regulations be laid before the House of Commons and referred to the appropriate Committee before being implemented. (Page 30)

RECOMMENDATION 24

The Special Committee recommends that the Department of Justice, in consultation with the Canadian Advisory Council on Firearms, develop regulations defining the scope of the term "device", and the criteria pursuant to which a power to prohibit "devices" by order-in-council

would be used. The Special Committee further recommends that the regulations be made "subject to affirmative resolution of the House of Commons" pursuant to section 39(1)(b) of the Interpretation Act. (Page 31)

RECOMMENDATION 25

The Special Committee recommends that the sale of magazines up to a capacity of 10 be completely unrestricted. The Committee further recommends that only competition shooters, whose FAC or restricted weapon registration certificate shows that they are so authorized, be allowed to acquire magazines up to a capacity of 20. Licensed gun collectors should be allowed to acquire magazines of any capacity, but further importations of magazines of a capacity over 20 would be prohibited, so that only those over-capacity magazines now in the country would be available for further acquisition by such collectors. An appropriate scheme of regulations and penalties would be devised to ensure that licensed firearms retailers did not sell over-capacity magazines to non-authorized purchasers, and that these magazines were not otherwise available. (Page 33)

RECOMMENDATION 26

The Special Committee recommends that a power to declare periodic general amnesties be added to the Criminal Code. The Special Committee recommends that amnesty periods be declared every few years. (Page 33)

RECOMMENDATION 27

The Special Committee recommends that the newly-established Canadian Advisory Council on Firearms be given an extended mandate, and a primary role in the development, implementation and monitoring of any changes to our present system of firearms control, including those presently under consideration and those which may be made in the future. The Special Committee further recommends that the Advisory Council submit to the Minister of Justice an annual report on the activities of the Council which the Minister must table before each House of Parliament. (Page 37)

RECOMMENDATION 28

The Special Committee recommends that there be as much certainty as possible in the Criminal Code itself. Furthermore, the Committee recommends that where detailed or technical provisions are inappropriate for inclusion in the Code, or where it is necessary to ensure certainty and consistency, use should be made of regulation-making powers. The Special Committee also recommends that all regulations, in addition to those specifically addressed earlier in the report, made pursuant to Part III of the Code be submitted to the Canadian Advisory Council on Firearms and laid before the House of Commons and referred to the appropriate Committee before being implemented. (Page 38)

RECOMMENDATION 29

The Special Committee recommends that with respect to section 85 of the Criminal Code, the minimum mandatory sentences therein be increased to three and five years respectively (from one and three respectively) and that these sentences retain their consecutive feature relative to other

sentences imposed as a result of the same event or series of events. The Special Committee further recommends that the Minister of Justice work with the provincial Attorneys General in establishing a set of firm directives for Crown Attorneys which would require the laying of section 85 charges whenever firearms are used in the commission of criminal offences. Moreover, the consent of the provincial Attorney General would be required before a section 85 charge could be withdrawn. (Page 41)

RECOMMENDATION 30

The Special Committee recommends that the duration of a prohibition order under section 100(1) of the Criminal Code be extended to ten years in the case of a first conviction and for life in any other case. The Special Committee does not oppose the addition of an element of discretion in section 100(1) and (7) of the Code as proposed in Bill C-80. (Page 42)

RECOMMENDATION 31

The Special Committee recommends that the federal government undertake a comprehensive review of all issues affecting the ability of the Department of National Revenue, Customs and Excise, to provide effective protection against the illegal entry of firearms into Canada. Such a review should include, as a minimum, a consideration of the issues of sufficient staff levels and of the training of customs officers in regard to firearms laws. It is the government's responsibility to ensure that there are sufficient numbers of adequately trained and equipped customs officers to provide effective border controls on firearms. (Page 43)

RECOMMENDATION 32

The Special Committee recommends that the federal government table, and Parliament enact, the legislation necessary to implement the recommendations made in this report as soon as possible. (Page 46)

CHAPTER 1

INTRODUCTION

1. THE FORMATION AND MANDATE OF THE COMMITTEE

This Special Committee was established pursuant to a motion made by the Honourable Kim Campbell, Minister of Justice, for a study of the subject-matter of Bill C-80, "An Act to amend the Criminal Code and the Customs Tariff in consequence thereof." This motion was passed by the House of Commons on Friday, November 23rd, 1990, and the Committee held its organizing meeting on Thursday, November 29th, 1990. The Order of Reference from the House gave the Special Committee all the powers of a Standing Committee, and ordered the Committee to complete its work and present a final report to the House by no later than Friday, February 15, 1991.

Bill C-80 was tabled before the House on June 26, 1990, and proposes a number of amendments to Part III of the Criminal Code, which is entitled "Firearms and Other Offensive Weapons." All of its proposed measures would affect the acquisition, possession and use of firearms, and would thus amend what are referred to as our "gun control" laws. The bill is, however, only part of a package of proposed measures, which would include the use of subordinate law-making powers and administrative actions. The purpose of these measures would be to improve the system by which the use of firearms in Canada is regulated in the interests of public safety, while also ensuring that the interests of responsible gun owners are at the same time dealt with fairly and equitably.

While Canada has a long history of laws regulating the possession and use of firearms, the issue has been controversial and at times highly contentious, requiring the balancing of divergent interests. Bill C-80 and its accompanying proposals would introduce significant changes to these laws, and the Minister of Justice thus proposed that this Special Committee be struck to allow input from Members of Parliament and members of the public on the concerns that gave rise to the government's package, the elements of the package itself, the concerns raised by it, and what might be done to improve upon it.

The package of proposed government measures goes well beyond the provisions of Bill C-80 itself, and the establishment of a Special Committee on the subject matter of the bill afforded the opportunity for a public process that would allow an examination of the objectives of the complete package, and the means chosen to accomplish these aims. The Minister also noted that other measures to improve the system were under consideration, and invited the Special Committee to consider additional approaches to those contained in the government's package, and to make recommendations on any additional steps that should be taken to improve the effectiveness of the system in the interests of all Canadians.

2. THE HISTORICAL CONTEXT

Although gun control is often thought of as a modern development, its history in Canada goes back to 1877, when penalties were provided for the carrying of handguns where there was no reasonable cause to use them for self-defence. Further controls were placed on handguns early in

this century, and a requirement that they all be registered was instituted in 1934. The first centralized restricted firearms registry system, under the control of the Commissioner of the R.C.M.P., was established in 1951.

Bill C-51, the Criminal Law Amendment Act, which resulted in the present gun control regime, was adopted by Parliament in 1977, but it was the result of a process that began the previous year with an earlier bill, Bill C-83. The development that led from this precursor to the bill that was finally accepted by Parliament is a history of controversy and compromise. The problems and diversity of perspectives that were wrestled with then are still being faced today as we meet new challenges and continue the process of developing an effective gun control system.

Prior to 1976, there was no control on the acquisition or possession of ordinary rifles or shotguns. Bill C-83 proposed a strict universal licensing system which would have allowed only those over the age of 18 to be licensed to possess any firearm or ammunition. There was much opposition to the proposed new system, both within Parliament and among members of the public. As a result, the bill died on the Order Paper.

After further consultation with the provinces and interest groups, Bill C-51 was introduced in early 1977. It proposed a system to control the acquisition of any firearm by those over the age of 16. Further controls were added on firearms retailers, and provisions were made for the search and seizure of guns in cases where there was a threat to personal or public safety. Additional provisions expanded the prohibition and restriction of firearms presenting a particular danger. In particular, fully-automatic firearms (previously restricted) were banned, with the possession of such weapons being grandfathered to then current owners. Severe penalties for the criminal use of guns were established, including a minimum sentence of imprisonment for their use in the commission of a crime. The use of prohibition orders was also expanded.

The present regime thus has three general elements. First, the screening of the acquisition of any firearm. Second, controlling specific types of firearms which pose a particularly high risk to public safety. Third, the deterrence of the criminal use of firearms.

This new regime has had some demonstrable success in achieving its aims. Officials from the Department of Justice presented to us data, taken from reports produced by Statistics Canada, that indicate that the criminal use of firearms in Canada has in some cases been significantly reduced (See Issue No. 1, Minutes of Proceedings pp. 1:21-1:22). In addition, statistics also show a decrease in the total proportion of firearms deaths and injuries, including those resulting from homicides, suicides, and accidental misuse.

Nonetheless, over a decade of experience with this system has shown that it has gaps and problems, and efforts have been underway for some time to substantially amend the current law. Shocking incidents in the United States also raised concerns that further controls were needed in Canada. In particular, the use of military and para-military weapons in that country, and their increasing appearance in Canada, led to concerns among police authorities and line officers, and among many members of the public, about the availability of such firearms. A government proposal was made in this regard and consultations begun.

Possible weaknesses in the Firearms Acquisition Certificate ("FAC") screening process have also been the subject of concern for several years among the police, officials of the Federal Department of Justice, and other public officials. The development of a comprehensive set of

amendments for the entire gun control system was thus already well along when this development was given an urgent impetus by the tragic events of December 6, 1989. On that date, 14 young women were massacred at the École Polytechnique in Montreal by a disturbed young man on a rampage. In the aftermath of this horrible event, public calls for a vastly improved gun control system led to the expansion of the legislative proposals then under development. On June 26, 1990, Bill C-80 was tabled in Parliament by the Minister of Justice, along with an announcement of several accompanying regulatory proposals. Concerns with the makeup of this package of proposed measures then led to the creation of this Special Committee.

3. OVERVIEW OF WITNESSES' VIEWS AND RECOMMENDATIONS

It has been said that the polarity of views on gun control ranges from those who advocate their total abolition to those who want their availability to be completely unrestricted. Such extreme perspectives do exist, but they do not dominate the debate. Many of the witnesses who appeared before the Special Committee displayed both a significant degree of understanding of the concerns of those with different interests and a willingness to compromise. Although the witnesses often differed radically in their views as to how the present system could be improved, all of them, along with members of the Special Committee, shared the same goal — protecting the safety of the Canadian public through the development of a more effective system for regulating firearms.

The Special Committee held 17 public hearings, occupying over 35 hours, and heard from over 60 individual witnesses. In addition, we received over 387 written submissions. We heard from individuals and citizens groups, including womens' groups, police associations, and legal and public health experts and associations, that concentrated on the danger posed by firearms to public safety. We had the advice and the views of the Minister of Justice and officials from her Department, firearms experts, hunter safety coordinators, customs officials, and some of the Chief Provincial Firearms Officers who actually administer the system. Representatives of the students and employees of the École Polytechnique, and the families of the victims of that tragedy, eloquently presented their perspective. The Special Committee also heard from wildlife and shooting federations, gun clubs, competitive shooting organizations, and other individuals and groups representing those Canadians, numbering perhaps in the millions, who use firearms legitimately and responsibly for their livelihood and for recreational hunting, target shooting, and collecting.

Some witnesses were concerned primarily with the danger to the public arising from the misuse of firearms by their owners and the possibility of theft and resultant criminal use of those firearms. They cited deaths and injuries resulting from domestic and social violence, suicides and accidents. Such violence involving guns is seen as a particularly urgent problem in our cities, where the majority of our people live, but it was asserted as well that the problem was not one confined strictly to urban areas.

These same witnesses also advocated the complete prohibition of all military-design firearms, with no grandfathering of those currently owned. Some urged that all semi-automatics, whether of military design or not, be banned or at least restricted. The restrictions would be tied to narrowly defined permitted uses, and there would be no use of semi-automatic firearms for hunting. They also urged that strict limits be put on ammunition magazine capacity and that the sale of ammunition be controlled as well. In some cases, settling for these prohibitions, limits, and restrictions was seen as a significant compromise, with the complete abolition of all private ownership and use of firearms being the preferred option.

Any access to firearms should, in the view of these witnesses, be strictly controlled so that only those whose competence, attitudes, and mental stability are beyond reasonable doubt could acquire a firearm. Some of the suggested approaches to achieving this goal involved access being allowed only to those over the age of 21, except with parental consent; mandatory waiting periods of up to six months; fees for FAC applications that would not only cover the full cost of firearms regulation, but also discourage ownership by those who were not serious about firearms use; extremely thorough FAC investigations; and mandatory possession permits which would have to be registered and renewed annually. Some witnesses strongly recommended that there be no storage of firearms permitted in homes or cottages. In sum, Mrs. Suzanne Edward, the mother of one of the École Polytechnique victims, expressed the sentiment of these witnesses well when she stated that "in Canada, gun ownership is a privilege, not a right... the legislature must differentiate between need and want (and) legislate in the best interest of the safety of Canadians as a whole".

Other witnesses argued with equal passion that millions of Canadians use firearms legitimately and responsibly for earning their livelihoods, and for recreational hunting, target shooting, and collecting. They argued that these owners and their firearms do not pose a danger to society, and that further controls are simply unnecessary. While they also cited a concern with the misuse of firearms at least equal to that of those who do not own guns, they felt that the present provisions are more than adequate if fully implemented and enforced. For example, most support more widespread and effective training in the safe use of firearms and they expressed disappointment that the requirement enacted by Parliament in 1977 in this regard had never been put into force.

Many firearms owners also objected strongly to the suggestion that they represented a "gun lobby", and that their views should therefore be discounted. They stated that they were appearing only to represent and protect their legitimate interests, as is the right of anyone who will be affected by proposed changes in the law. They believe that their views have been misrepresented, and that their expertise has not been given due attention in the design of the proposed changes. They are also concerned that the activities of the responsible majority are being unnecessarily and unfairly impinged upon because of the actions of a few, and that the criminal use of firearms should be the primary concern.

Moreover, it is their belief that only the imposition and strict enforcement of penalties for firearms offences would affect the criminal use of firearms. They argued that the government's package of measures, while imposing further controls on law-abiding users, would have little impact in this regard. Mr. Rick Morgan, the Executive Vice-President of the Ontario Federation of Anglers and Hunters, concluded that the government's proposals "are misdirected and do not address the real issues or the big picture. In that sense, it is not only unfair to ethical, law-abiding firearms owners, it is also unfair to society as a whole".

Several themes were sounded by witnesses from all perspectives, and these concerns form the common thread that can be found in all of the evidence heard by the Special Committee. Virtually all of the witnesses agreed that there are legitimate uses for firearms. One of the problems faced by the Committee was, however, the difficulty of ensuring that the legitimate purposes and uses of particular firearms were defined and regulated so that public safety would not be unnecessarily endangered. The common method seen as the most effective way to achieve this balanced objective is to focus on the initial access point to firearms and to ensure the existence of adequate screening and training at that point.

The two other dominant themes which were voiced by witnesses from all perspectives were the overriding necessities of dealing more effectively with the criminal use of firearms and of preventing illegal entry of firearms at the border. The only answer to the first problem would appear to be significantly stronger penalties for such use and a profoundly more serious approach to the enforcement of those penalties. The answers to the second problem are less clear, but no less critical.

4. OBJECTIVES OF THE COMMITTEE'S RECOMMENDATIONS

Much of the debate before us was about whether more or less gun control was needed, and whether the government's package added enough further controls or too many. The Special Committee believes that it is more effective legislation, regulation and administration that is required, and that this involves a somewhat different approach. We have taken from both the government proposals and the recommendations of the witnesses those ideas which we feel will contribute to that aim, added some additional elements, and then tried to mold all of these ideas into a qualitatively different system which will accomplish the objectives common to all the concerns discussed above. The Special Committee believes that this is a balanced package of proposals that will both provide better protection to the public, and avoid unnecessarily hampering or preventing the activities of legitimate gun users.

The Special Committee affirms that private ownership of guns in Canada is a privilege. Unrestricted availability of firearms would not be responsible governance, but neither would restrictions making it difficult or impossible for persons of all ages, both sexes, and varying physical abilities to pursue legitimate recreational activities in a responsible and safe manner. The Committee believes that the best approach is to ensure that only properly qualified persons have access to the firearms necessary and appropriate for their sport, whether it be hunting, competition shooting, or collecting. This means improved FAC screening, but above all, adequate training to ensure that everyone with a firearm knows how to use and store it competently and responsibly.

The Special Committee also believes that such a system can and should be designed and implemented so that it has a minimal impact on current law-abiding users of firearms. There should be no further importation of dangerous weapons such as military assault rifles. Where a legitimate purpose now exists, the activity, the firearms suitable for it, and the persons who engage in the activity, should be defined and regulated.

There should also be transitional provisions that ensure that those who presently own and use firearms can retain their guns if they can show that they are competent to use them. There should also be transitional provisions that ensure that new screening requirements, such as competency training, are not applied to those who have been using firearms safely for some time. In this way, a more effective system can be phased in gradually.

5. THE STRUCTURE OF THE REPORT

Because the Special Committee believes that it is at the initial point of access that improvements in the system must begin, Chapter 2 of our report will look at the screening process, in particular the FAC system. Chapter 3 will then look at types of firearms, and the problem of

categorizing and controlling firearms that present a particular danger. That section of the report will also deal with such approaches to the regulation of firearms as safe storage requirements and amnesties. Chapter 4 will then deal with the role and present mandate of the newly-established Canadian Advisory Council on Firearms and the use of regulatory provisions. That chapter will set out the critical part which we would recommend the Council play in an improved system, and the additions to its mandate which may be necessary so that it can discharge this role.

Chapter 5 will address the two issues which the Special Committee regards as being of primary importance, but which have been neglected in the government's package — criminal use of firearms and the problem of border control. Many witnesses were dismayed that the government had not addressed the need for stronger and better-enforced penalties for criminal use of firearms. The Special Committee shares their sense of deep and overriding concern that this matter has not been addressed, and recommends in the strongest possible terms that this concern must be responded to on an urgent basis. In addition, the problem of adequate border controls must also be tackled if the recommendations that we make throughout this report are to result in a more effective system. All that we recommend will be to no avail if these two problems are not dealt with as priority matters for legislative and administrative action.

CHAPTER 2

ACCESS TO FIREARMS: THE FIREARMS ACQUISITION CERTIFICATE

1. INTRODUCTION

A. The Objective of a Strengthened Process

The Special Committee finds the present Firearms Acquisition Certificate (FAC) screening process to be inadequate. The proposals made by the government in Bill C-80 would strengthen the process, although other steps must be taken to make it even more effective. Assistance may be had in this regard through the guidance and advice of the Canadian Advisory Council on Firearms. Moreover, the Special Committee believes that the tougher and lengthier process proposed by the government is not necessary in all cases, and is inadequate in other cases.

The Special Committee therefore proposes that a strengthened FAC application process be applied to first-time applicants. A much simpler renewal procedure would apply to anyone who had already gone through the full process, and to those in possession of a valid FAC when the new system was implemented. Transitional provisions would apply to those who presently own and use firearms, but who did not have an FAC when the new system commenced. The Special Committee believes that this will not only be fairer to both present and future owners of firearms, but it will mean that a significantly tougher initial screening process would become feasible. If implemented as a package, the Special Committee believes that the resulting system would not only be stronger than the present process, but it would be significantly more effective than what is presently proposed by the government.

B. The FAC System

The definition of an FAC is set out in section 84(1) of the Criminal Code and reads as follows:

> "firearms acquisition certificate" means a firearms acquisition certificate issued by a firearms officer under section 106 or a hunting licence, certificate, permit or other document issued under the authority of a law of a province that, by virtue of an order issued under section 107, is deemed to be a firearms acquisition certificate.

FACs are issued by designated "firearms officers", usually local police officers. They are normally applied for locally, although other firearms officers have the jurisdiction to issue them in appropriate cases. Section 106 of the Code sets out the circumstances in which an FAC may not be issued. An FAC is not available to any person under the age of 16 years, or who is subject to a prohibition order, or has a criminal record or a history of mental illness involving violence or other violent behaviour (but only within the preceding five years). A firearms officer also has some

discretion to refuse to issue an FAC if he or she has "notice of any matter that may render it desirable in the interests of the safety of the applicant or any other person that the applicant should not acquire a firearm". In any other case, the Code states that the officer must issue the FAC. Any refusal is subject to a right of appeal.

Section 106 also provides that an FAC is valid across Canada for a period of 5 years and, upon its expiration, the current application process must be gone through again if another FAC is required. The fee for issuance of an FAC is presently set out in this section at $10. No fee is presently payable by persons who require a firearm to hunt or trap in order to sustain themselves or their family.

The FAC is not at present required for the purposes of owning, carrying or possessing a firearm. It is simply a screening process for the acquisition of a firearm which seeks to ensure that those who wish to acquire guns can be entrusted with them. The present FAC, therefore, allows the holder to acquire an unlimited number of unrestricted firearms for a 5-year period. Although the FAC is generally regarded as a permit to purchase a firearm, it also applies to any kind of acquisition, for example, by way of gift or inheritance. An FAC is also necessary when a firearm is borrowed from its legal owner, except when it is being used in the owner's company and under his or her supervision.

The requirement that any person wishing to obtain a firearm of any kind must have an FAC was not introduced until 1977. There are thus many people in Canada who were in possession of guns before the requirement came into force on January 1, 1979, and who may never have had any need to apply for an FAC. The evidence presented to the Special Committee also indicated that as of the end of 1989, there were approximately 847,000 people in Canada with FACs in good standing. The Special Committee does not intend that its recommendations would interfere with the privileges of any of the above two groups of individuals. The Committee does, however, strongly endorse the recommendations made by witnesses of varying perspectives that effective firearms legislation means a focus on the point of access. It is the goal of the Special Committee, then, to strengthen the present point of access, the FAC process, and, in particular, to ensure that a national firearms competency and safety course is obligatory as a condition of that process.

2. FIRST-TIME APPLICANTS

A. The Application Process

i) The Present System

Although the statutory requirements for the FAC process are set out in the Criminal Code, the administration of justice, and thus the administration of the gun control provisions of the Code, are a matter of provincial jurisdiction. The system is therefore administered by Chief Provincial and Territorial Firearms Officers, who are responsible to their respective Attorneys General. The R.C.M.P. has, however, produced a "National Firearms Manual" which sets out guidelines for the administration of the firearms provisions of the Code. According to the Manual, a firearms officer is required to conduct a proper index check of the applicant to ensure that all identification data on

the application is complete. The applicant's name is then checked against local and provincial indices and on the Canadian Police Information Centre (CPIC) computer, which maintains central criminal records covering all of Canada.

When an FAC application is received from a person who has not been a local resident for the previous 5 years, the firearms officer should make an index check of the applicant with the relevant local and provincial police agencies before issuing the FAC. These checks should cover at least the five-year period referred to earlier. International records must also be reviewed in instances where the applicant is from another country. The firearms officer may contact or interview the applicant on any matter which requires clarification. For example, any doubts as to the validity of the applicant's claim to be a hunter or trapper, when a sustenance permit is being applied for, must be verified.

According to representatives of the firearms community who appeared before the Special Committee, these federally recommended screening procedures are adapted by each province and territory in accordance with its own policies, and further adapted in some cases by the local firearms officer to take account of local policies and circumstances. This has led to significant inconsistencies in the interpretation and application across the country of these and other firearms control provisions. Even the Chief Provincial Firearms Officers who appeared before the Special Committee acknowledged a lack of uniformity in firearms administration both within and between provinces. The Committee recognizes this general problem of lack of uniformity and has made recommendations later in this report in that regard.

The Special Committee was disturbed by evidence that there is not at present a uniform nation-wide screening process being applied to FAC applicants. While a certain amount of administrative discretion is inevitable in any system, those basic procedures flowing from the requirements of the Criminal Code and described in the Firearms Manual must be consistently applied across the country. These recommended basic screening mechanisms are minimal at best, and must be maintained and strictly enforced.

RECOMMENDATION 1

The Special Committee recommends that the present procedures set out in the R.C.M.P. National Firearms Manual for screening FAC applicants be applied uniformly by every firearms officer across Canada, and that this application be strictly enforced.

ii) Bill C-80 Proposal

Bill C-80 would make a number of changes to the requirements for obtaining an FAC. The proposed process would require all FACs to bear the holder's photograph in an attempt to reduce the potential for unauthorized or fraudulent use of FACs. The bill would also require an applicant to furnish the names of two persons who have known him or her for at least 3 years, and who could confirm that the information submitted with the application was true.

It is the expressed intention of the government that these references will be chosen from a list of occupations or professions to be prescribed by regulation; however, such a list will take into consideration those occupations and professions with a long-term residency in the community and

which are accessible to large numbers of people. The only legal requirement to be imposed on references, according to the evidence of the Minister of Justice, would be to answer truthfully any inquiries put to them by the authorities during the investigation of the applicant.

Finally, the bill would remove FAC fees from the Code itself and establish a power to set such fees by regulation. According to the Minister in her presentation to the Special Committee, the transfer of fee-setting authority to the regulation-making power would permit periodic adjustments which would ensure future cost-recovery is maintained in a system presently operating at a deficit. This is the approach now normally taken to all fees of this nature. It is the expressed intention of the Minister to set the fee initially at $50 for a five–year FAC in order to achieve this objective.

iii) The Special Committee's View

The Special Committee endorses the proposed requirement that the holder's photograph be on the FAC. It also supports the proposed reference requirement so long as it remains simply a starting point for the firearms officer's investigation, and does not in any way become a guarantor process. The Committee also agrees that the proposed class of references be prescribed by regulation so long as it is broad enough to ensure that, for example, in areas where such persons as professionals and municipal officials might not be available, other community leaders, such as band council members in aboriginal communities, would be in the prescribed class. We also believe that the prescribed class must be constructed so as to allow firearms officers some discretion in appropriate cases. For example, particularly when a livelihood may be at stake, the officer may accept any additional persons considered appropriate to act as references.

Other potential FAC screening mechanisms were brought to the attention of the Special Committee by a number of witnesses. For example, it was suggested that FAC applicants sign a waiver allowing firearms officers to interview the applicant's physician. The Committee notes with approval that the ramifications of this suggestion have been referred for study by the Minister of Justice to the Canadian Advisory Council on Firearms.

With respect to the government proposal regarding FAC fees, the Special Committee agrees that the power to set fees should be by regulation. However, the Committee is also sensitive to the concern expressed by the firearms-owning community that the fee for obtaining an FAC should not serve as a deterrent to gun ownership and that it must adequately reflect the present cost of the system. Therefore, while we acknowledge that the proposed $50 may at first glance appear to be a reasonable cost-recovery amount, there was no firm evidence before us upon which we could assess the validity of this figure. Therefore, the Special Committee proposes that the Canadian Advisory Council on Firearms undertake a cost analysis of the FAC system, and indicate whether a figure in the proposed range is indeed justified. Moreover, it should also be the responsibility of the Advisory Council to study future proposed fee increases and make appropriate recommendations.

Some concern was expressed by a number of witnesses appearing before the Special Committee that the present age limit of 16 is too low to ensure responsible and safe firearms ownership in this country. The Committee would add to the present screening system by requiring that the consent of a parent, or person having custody or control of the applicant, be obtained before there is any processing of an FAC application where the applicant is between the ages of 16 and 18 years. The Committee notes that there is already provision in the Criminal Code requiring such

consent for the issuance of possession permits to minors under the age of 16 in specified circumstances. Therefore, the Special Committee sees a need only to deal with access to FACs by persons between the ages of 16 and 18 years.

RECOMMENDATION 2

The Special Committee recommends that all future FACs must bear the photograph of the holder.

RECOMMENDATION 3

The Special Committee recommends that the requirement that all new FAC applicants provide the firearms officer with the names of two references be adopted as proposed by the government, provided that the makeup of the prescribed class is constructed to ensure that everyone has a reasonable opportunity to fulfill the requirement.

RECOMMENDATION 4

The Special Committee recommends that the proposed $50 fee for the issuance of a first-time FAC be adopted subject to confirmation by the Canadian Advisory Council on Firearms that such a figure is justified.

RECOMMENDATION 5

The Special Committee recommends that all FAC applicants between the ages of 16 and 18 years have the consent of a parent, or person having custody or control of the applicant, before there is any processing of the application.

B. Competency and Safety Training Courses

i) The Present System

According to the present legislation (section 106(2)(c) and (3) of the Criminal Code), the applicant for an FAC must provide evidence of having passed a course or test, approved by the provincial Attorney General, in the safe handling and care of firearms. The provision, however, was to have been proclaimed province by province as courses and tests became available. It has never been proclaimed in any province. Failure to make any progress on the implementation of the training course requirement appears to have been the result of a number of factors, the principal one being the matter of cost. While the federal government after 1977 prepared some resource materials and went to work on developing national standards for such courses, the provinces were apparently unwilling to undertake responsibility for administering a federally-mandated program without the federal government underwriting the costs.

ii) Bill C-80 Proposal

Bill C-80 would substitute for the present provision a virtually identical one. The only additional requirement would be that the course or test include knowledge of gun control laws. The requirement that it be implemented province by province would remain.

iii) The Special Committee's View

The Special Committee believes that there must be established a mandatory competency and safety course, the successful completion of which would be a condition to obtaining an FAC for the first time. The Committee recognizes the overwhelming support for the implementation of such an educational component in the acquisition process from virtually all witnesses who appeared before it. The Committee sees a need for the establishment of national standards for these courses to be recommended by the Canadian Advisory Council on Firearms and imposed by the federal government. It is also crucial that there be qualified instructors available to conduct the courses. The Committee suggests that these courses be conducted on a user-pay basis, and that administrative costs be kept to a minimum. The Committee also feels that all first-time FAC applicants should be required to successfully complete a course, rather than simply passing a test, as Bill C-80 proposes. Successful completion would entail certification by a qualified instructor that the applicant had met the national competency standards.

The Special Committee understands that the groundwork necessary to make such courses available in all parts of the country will be extensive. It is the view of the Committee, however, that any further delay in the implementation of this essential feature of an effective screening system cannot be tolerated. The federal government must begin by setting national standards and then work with the provinces to ensure the availability of courses. The training requirement must then be imposed on a national basis. This must be done as soon as possible.

RECOMMENDATION 6

The Special Committee recommends that that portion of section 106(3) of the Criminal Code, which requires that any training requirement be proclaimed province by province, be repealed forthwith. The Committee recommends that the remaining requirement be imposed nationally on all first-time FAC applicants as soon as possible. This should be done after consultation with the provinces, but in any event no later than June 30, 1992. The training requirement should also be amended to provide that all first-time applicants must successfully complete a course covering the competent and safe handling of firearms, and knowledge of firearms control laws. These courses must conform to national standards. Successful completion of a course would entail certification by a qualified instructor that the applicant met the national standards.

C. Mandatory Waiting Period

It has been proposed in Bill C-80 that there be a 28-day mandatory waiting period between the application for an FAC and its issuance. The rationale offered for this proposal is that it would enable the police to make a more thorough assessment of FAC applicants, while at the same time provide a time period that would hopefully discourage impulsive crimes or shootings. There is at present no time limit set out in the Code for the processing of an FAC application; however, as noted earlier, in those cases where the firearms officer has no valid reason to delay issuance, he or she must provide the applicant with an FAC.

The Special Committee believes that once the requirement for the successful completion of a mandatory safety course is implemented, it will provide for a built-in waiting period that would be of sufficient duration to accommodate both rationales put forward by the Minister of Justice for such a

mandatory period. However, the Special Committee has been convinced that a minimum of 28 days must pass between the application for and issuance of an FAC. Moreover, until such time as the courses are in place, there will be the need for some sort of waiting period. Therefore, the Committee suggests that the legislation provide that, in the case of a first-time applicant for an FAC, there must be a 28-day mandatory waiting period and the successful completion of the standardized safety training course before the issuance of an FAC.

RECOMMENDATION 7

The Special Committee recommends that the legislation provide that an FAC will be issued only after a 28-day waiting period and after the successful completion of the implemented mandatory national competency and safety course.

3. RENEWAL PROCEDURE

The present FAC provisions contained in the Criminal Code do not provide for the renewal of a certificate. Once it expires, the holder is in the same position as someone who has never held an FAC. Groups such as the Canadian Wildlife Federation and the Ontario Federation of Anglers and Hunters have been urging the government, since the FAC system was adopted by Parliament in 1977, to develop a renewal procedure that involved less bureaucracy and expense than a complete re-application process.

Whatever the merits of this approach may have been in the past, the Special Committee believes that the creation of such a procedure is clearly necessary and justifiable given the expanded and strengthened screening system which we have recommended for first-time applicants. Those who have gone through this new process will have passed strict screening and training requirements that will ensure that they are trustworthy and competent with firearms. Thereafter, only minimal screening should be required. This can be done both effectively and efficiently with little inconvenience to the FAC-holder. Such a renewal procedure would not only respond to complaints about the present system, but it would alleviate many of the concerns that were expressed by witnesses about the proposed addition to the FAC process which they saw as too onerous.

While it might be suggested that a renewal procedure would turn the FAC into a possession permit, that is not the case. Only someone who wishes to purchase another firearm after the initial FAC has expired will require another certificate. Many FAC-holders, especially hunters, maintain a current certificate so that they can borrow firearms in the event that their own gun is lost or damaged. Those who require firearms for their livelihood may require an FAC at all times so that they can acquire firearms on short notice as circumstances dictate. Others will want to be in possession of a current FAC so that there is no question about the status of their possession of a firearm.

The Special Committee expects that FACs will continue to be valid for a period of 5 years, and an application for renewal would have to be made either before the expiration of this period or within a reasonable period thereafter. The renewal form could be affixed in some way to the original FAC in order to facilitate the opportunity to send the renewal form to a firearms officer by mail. This would lessen any travelling burden which might be experienced by people in rural or remote areas of the country.

The time required for a firearms officer to update the status of the applicant should be minimal in most cases. The officer would only be required to perform the same minimum checks set out in the National Firearms Manual in terms of computer searches and a review of local and provincial indices. The officer would have to review only a minimal amount of information needed to verify that the applicant for renewal had maintained a clean record since being granted an FAC. However, the Special Committee recommends that where an application for renewal is made after the expiration of the FAC, but within a reasonable time thereafter, the firearms officer should have the discretion to require the applicant to demonstrate firearms competency on a basis similar to that recommended for transitional applicants in the next section of this report.

Once the basic checks are completed, the applicant would be notified that he or she could come in to pick up the renewal certificate. The Special Committee believes that it is essential that the renewal applicant appear in person before the firearms officer at least once. This would allow the firearms officer to verify the renewal applicant's identification and update the photograph on the FAC. It is anticipated that officers would be equipped with camera equipment for the purpose of taking such photographs. In addition, the officer would be provided with at least a minimal opportunity to actually observe the applicant in person.

While the Special Committee believes that this process is all that would be required in the vast majority of cases, we recognize that there will be instances in which there will be cause for conducting a further investigation. The Committee therefore believes that the firearms officer should have a discretion to conduct a more thorough investigation in appropriate cases. Administrative procedures could be devised to ensure that this discretion was not invoked unnecessarily. For example, guidelines could be established by the Chief Provincial Firearms Officer, and a check on any discretion exercised by a firearms officer could be ensured by requiring that the officer submit a report to the Chief Provincial Firearms Officer.

These minimal procedures would be much less costly than the process which the Special Committee has recommended for the first-time FAC applicant. The Committee therefore feels that the fee for a renewal should be a fraction of that required to cover the costs of a full screening system which would apply to the first application.

RECOMMENDATION 8

The Special Committee recommends that a renewal procedure be established for those who wish to obtain another FAC after having gone through the full screening process recommended for first-time applicants. FACs under the new system will continue to be valid for a period of 5 years, and applications for renewal will have to be made either before the expiration date or within a reasonable period thereafter. A renewal procedure could be initiated by mail, but the renewal applicant would be required to appear in person to pick up the new certificate, and to have a current photo taken. While only a minimal check of criminal records and local police files would be necessary in all but unusual cases, the firearms officer would retain a discretion to conduct a further investigation, including requiring a personal interview, in appropriate circumstances.

RECOMMENDATION 9

The Special Committee further recommends that in those cases where the renewal application was made after the expiration of the FAC, but within a reasonable period thereafter, the firearms officer would also have the discretion to require the applicant to demonstrate competency on a basis similar to that applying to transitional applicants.

RECOMMENDATION 10

The Special Committee recommends that the fee for a renewal be set at $10, subject to confirmation by the Canadian Advisory Council on Firearms that this figure is appropriate.

4. TRANSITIONAL PROVISIONS

The Special Committee believes that special transitional provisions will be needed to deal with existing firearms owners. The FAC system being recommended should apply with full force to all those who have not yet entered the present system. As noted earlier, however, the Committee believes that those who have been using firearms legitimately and responsibly for some time should not have to go through the full screening process recommended for first-time FAC applicants. These present firearms users would essentially break down into two distinct groups: 1) those in possession of a valid FAC when the new system was implemented and 2) those in possession of firearms but who did not have an FAC when the new system was implemented.

Those who are in the possession of valid FACs upon the implementation of a new FAC system should, in the interests of fairness, be dealt with on the same basis as renewals. Therefore, as long as the FAC was renewed before its expiration, the holder would only be subject, under the new system, to a $10 fee and a current records check. As noted earlier, however, where the renewal application was made after the expiration of the FAC, but within a reasonable period thereafter, the firearms officer would have the discretion to require the applicant to demonstrate firearms competency on a basis similar to that set out below with respect to transitional applicants.

There are thousands of people who currently do not possess an FAC either because their firearms were acquired before 1979, when no FAC was required, or they have let their FACs lapse because they have had no reason to acquire a new one. While the Special Committee is opposed to requiring everyone to obtain an FAC, we would prefer to see as many firearms owners as possible enter the new system. The Committee therefore suggests that an express transitional period of two years be set out in the legislation with its own set of rules to deal with those firearms owners not in possession of a current FAC at the time of the implementation of a new system.

The transitional rules would be designed to act as an incentive for those without FACs to enter the new system without having to complete the mandatory national competency and safety course, which may not be necessary given their previous experience. They would, however, still be subject to the other new FAC requirements, including a photo, provision of references, a 28-day mandatory waiting period, and the increased fee.

The competency requirement for transitional applicants might be satisfied in one of several ways. As all provinces now require hunters to undergo a hunter safety education course, which includes firearms training, a hunter could simply present an existing hunting license, or even an

expired license, as evidence of some competency training. Those who are members of recognized gun clubs could use their membership as evidence of competence. Gun clubs insist that their members are knowledgeable in the safe use of firearms, and such membership should be ample evidence of firearms knowledge and training. Provincial ministries and gun clubs could even certify people on the basis of their own records, insofar as they exist, in those cases where hunting licenses had been lost or memberships had lapsed.

There would still be those owners, however, who have not held a hunting license or belonged to a gun club or other shooting organization for some time, but who have been experienced gun users for years. Such people could demonstrate firearms competency by taking a standardized written or oral test covering the competent and safe handling of firearms and knowledge of firearms control laws. There might even be cases where no test is required because the competence of the transitional applicant was well known to the firearms officer, or was otherwise beyond question. In such cases, the firearms officer could be given a discretion to issue an FAC without requiring that the test be satisfied. Because the invocation of such a discretion would be a complete departure from the competency requirements of the new system, the officer should be required to submit a report to the Chief Provincial Firearms Officer as to why the exercise of discretion was considered justified in the circumstances.

In the result, those who do not renew their current certificate before it expires, or within a reasonable period thereafter; or take advantage of the two–year transitional period with its special rules; or simply obtain an FAC pursuant to current legislation, will have to be treated as first-time applicants should they ever require an FAC once the new system is implemented. Existing owners should thus be encouraged to consider carefully whether they may need to acquire other firearms in the future, or for any other reason, acquire an FAC.

Finally, the Special Committee notes that there is already a provision in the Criminal Code which could provide a built-in transitional measure for those who have shown their trustworthiness and competency pursuant to a provincial law or program, whether it be a hunter safety course or some other program. Section 107 of the Code provides that the Attorney General of any province can apply to the federal Cabinet to have "any hunting licence, certificate, permit or other document...issued under the authority of a law of a province (be declared) a valid firearms acquisition certificate". This provision is presently in force, but it has apparently never been used by any provincial Attorney General. It should be dusted off, and used to ease the way into any new regime for the screening of FAC applicants.

RECOMMENDATION 11

The Special Committee recommends that those who hold an FAC when a new screening system is implemented be permitted to renew their FAC when it expires pursuant to the rules pertaining to renewal. The Special Committee further recommends that there be a transitional period of two years after a new system is implemented during which those who own firearms but do not have a current FAC can obtain one under special rules. Specifically, they should be allowed to fulfill the recommended competency requirement for first-time FAC applicants without having to take a training course. The Special Committee has suggested several ways in which this might be accomplished, but it will be the ultimate responsibility of the government to ensure that a fair and workable system is devised.

5. MULTI-LEVEL TRAINING SYSTEMS

Witnesses from different perspectives recommended that competency training and knowledge be linked to particular types of firearms as an element of controlling both the access and use of guns. Several firearms users recommended that a regime of multi-level training be implemented to control access to particular firearms. This was often referred to as the "Graded FAC" approach, as it would involve more than one level of training under the proposed strengthened FAC system for basic access to different types of firearms.

Some of the proposed systems had only 2 levels — one for initial access to single-shot firearms, and a second for access to any kind of semi-automatic. Others had multiple levels, and these depended either on the type of firearm sought, or on the purpose for which the firearm was sought. Some of the proposed systems attempted to combine both factors — the type of firearm involved and the purpose for which it would be owned or used — in the creation of different training requirements. Mr. John Vaughan of the Alberta Federation of Shooting Sports compared the concept to the approach now taken to driver's licenses, in which a certain degree of competency must be demonstrated depending on the required use for the licence.

While the Special Committee recognizes that the concept of a graduated licensing system, with different levels of training dependent on the type of firearm and the activity to which it relates, has a certain appeal and may warrant further consideration, the Committee does not feel that such an approach would be feasible at this time. There are two principal difficulties inherent in the proposal. The first is that it would be difficult to design a training system which took account of both the type of firearm involved and the nature of the activities in which the person seeking access would engage. Instead, it is the opinion of the Special Committee that controls on both firearms and activities should be carefully considered by the Canadian Advisory Council on Firearms, as recommended later in the report, and then dealt with on the basis of the Committee's proposed method of categorizing firearms as set out in a subsequent chapter.

The second principal problem with a graduated licensing system is the enormous amount of work involved in developing the necessary infrastructure to provide even basic training for all FAC applicants. Mr. William McKittrick, the Ontario Hunter Education Coordinator, cited the problem of the availability of ranges, particularly in urban areas, for live firing training of would-be firearms users.

The single level of training which we are recommending should err on the side of being stricter if that appears to be required. When that system is in place, the Advisory Council should evaluate it and consider whether further refinements and developments are necessary.

RECOMMENDATION 12

The Special Committee recommends that only a single level of training be developed as part of the FAC process, and that this single level of training be as comprehensive as necessary to deal with all firearms.

RECOMMENDATION 13

The Special Committee recommends that when the training requirement which we recommend is fully implemented, the Canadian Advisory Council on Firearms monitor its development.

6. AMMUNITION

It was suggested by a number of witnesses who appeared before the Special Committee that another method of ensuring public safety with respect to firearms use would be to regulate the sale of ammunition under the Criminal Code. In particular, the Canadian Police Association, among others, proposed that FACs be produced, verified and recorded in every transaction involving the purchase of ammunition. In this way, it was argued, it would become increasingly difficult for criminals to obtain ammunition for stolen firearms.

Various other witnesses, however, including the Chief Provincial Firearms Officers, pointed out that screening the sale of ammunition by way of an FAC requirement would be both unworkable and unenforceable. The Dominion of Canada Rifle Association and the British Columbia Wildlife Federation argued that such a requirement would fundamentally alter the present FAC system. The proposal would immediately require present owners of firearms who do not have FACs to go through the entire screening process in order to acquire any further ammunition for their guns. This would make the FAC into a possession permit which all firearms owners would require, rather than purely a permit to acquire new firearms. Finally, the Chief Provincial Firearms Officers summed up the problem as ultimately one of enforcement. Ammunition is not traceable. Not only is there no room for identification, but its bench life is very long.

The Special Committee has recommended a strengthened system for controlling access to firearms, and we believe that this is the best method of ensuring responsible and safe firearms ownership.

RECOMMENDATION 14

The Special Committee recommends against the proposal that an FAC be required to purchase ammunition. The Committee believes that the problems inherent in implementing such a system would make it unworkable. The Committee further believes that its strengthened FAC package will be more effective in regulating firearms use in the interests of public safety.

7. REVOCATION

Bill C-80 would add to section 112 of the Criminal Code the power for a firearms officer to revoke an FAC where he or she has notice of information indicating that such action is desirable in the interests of the safety of the FAC-holder or anyone else. Section 112 now applies to the revocation of restricted weapon registration certificates and similar permits. The full right of appeal already available under section 112 would apply equally to those persons who felt aggrieved by an FAC revocation. According to the government, the implementation of this provision is in response to situations in which police have seized firearms, only to have the owner commit a crime with a new firearm acquired using his or her existing FAC.

While the Special Committee accepts that there will be instances where the revocation of an FAC is necessary, it is sensitive to the concerns expressed by firearms owners who appeared before it that a revocation provision places too much power in the hands of a peace officer. Instead, it was

suggested by some witnesses that the problem sought to be rectified would be better dealt with in the present firearms search and seizure provisions of section 103 of the Code. The Committee agrees with this suggestion and recommends that the Code be amended to provide that an FAC, in and of itself, be subject to search and seizure. The Committee further recommends that where it is ultimately determined by a court that the seizure of an FAC was justified in the circumstances, all firearms privileges, and not just the FAC must be revoked. The Committee also recommends that the duration of the suspension of privileges be subject to the judicial discretion presently provided for in section 103.

RECOMMENDATION 15

The Special Committee recommends that the proposed power of revocation set out in Bill C-80 be dealt with pursuant to the present firearms search and seizure provisions of the Criminal Code. In this way, a peace officer would require either prior authorization from a court to seize an FAC, or authorization subsequent to the seizure in those circumstances where the danger to safety was so great that it was impractical to secure prior authorization. In either case, the matter would immediately be brought before a court for a hearing of the case. It is the view of the Special Committee that because of the seriousness of firearms misuse, any finding by the court that the seizure of the FAC was warranted should result in the revocation of all firearms privileges for a period not exceeding five years.

CHAPTER 3

TYPES OF FIREARMS

1. AUTOMATIC FIREARMS CONVERTED TO SEMI-AUTOMATIC MODE

A. The Prohibition

In 1977, when the present firearms control regime was established, fully-automatic weapons were prohibited, subject to a provision which allowed those automatics (then restricted weapons) which were properly registered and held by "bona fide gun collectors" as of January 1, 1978 (when the prohibition came into force) to be retained. These "grandfathered" automatics, approximately 5,000 of them, are the only legal fully-automatic firearms which have been in Canada since 1978, and they can only be traded among those who legally possessed such a gun when the grandfathering provision took effect.

From that point on, the only automatic weapons which could enter Canada were those which had been converted to fire only in a semi-automatic mode. A great deal of interest eventually developed in these converted automatics, and the Special Committee heard evidence that an estimated 50,000 or more such firearms have entered Canada since 1978, although it is not clear how many of these guns remain in the country.

The Special Committee heard a great deal of evidence on the issue of the extent to which these converted firearms could be reconverted back to fully-automatic fire. It was the evidence of Mr. Murray Smith, a firearms expert with the R.C.M.P., that while these firearms can be altered so as to make them difficult to reconvert, their design is such that no form of alteration can make them impossible to reconvert to fully-automatic fire.

Moreover, it was demonstrated by a firearms expert with the Ontario Provincial Police that many conversions involved little more than cosmetic or easily reversible alterations, so that with a minimum of tools and knowledge they could be reconverted to fully-automatic in a matter of minutes. The danger presented by the use of converted automatics has been addressed in recent case law, which has found many of these "converted" firearms to be prohibited under the ban instituted in 1978 because, given the relative ease with which they can be reconverted, it was determined that they have never really lost the "capability" of fully-automatic fire.

In response to the growing concern in this regard, the government is now proposing in Bill C-80 to prohibit all converted automatics entirely, subject only to a grandfathering provision. Clause 2(3) of the bill would add to the definition of "prohibited weapons" in section 84(1) of the Criminal Code those firearms manufactured as automatics, but converted to semi-automatic fire. Clause 2(5) of the bill would preserve those converted firearms already in the hands of "genuine gun collectors" if registered as "restricted weapons" by a certain date.

Many of the witnesses who appeared before the Special Committee supported the proposed prohibition of these weapons. Even those who opposed banning all of these firearms agreed that many of these conversions did pose a serious danger of reconversion, and, with a single exception,

they agreed that all inadequate conversions should be banned. Most of the witnesses also agreed that converted firearms are not required for legitimate hunting purposes, although some are so used. Their primary use would appear to be in the areas of competition shooting and collecting.

It was proposed to the Special Committee that inadequate conversions could be dealt with by way of conversion standards applied at the point of entry into the country. The R.C.M.P. firearms expert, Mr. Smith, advised, however, that conversion standards would be administratively unfeasible because they might have to be developed for each model of automatic firearm manufactured. Moreover, the customs officials who appeared before us advised that they do not even have the personnel available to examine every shipment of firearms, and conversion standards would require that each individual converted firearm be examined by a qualified expert to determine that it had been adequately altered according to specified standards.

The Special Committee believes that at least many, if not all, converted automatics are potential automatic weapons and thus a danger to public safety. The development and use of conversion standards to determine which do not present an unacceptable risk of reconversion would not appear to be a feasible approach, and it does not seem likely that the numbers of potentially acceptable conversions would warrant such an approach in any case.

RECOMMENDATION 16

The Special Committee recommends that all firearms manufactured as fully-automatic weapons, but converted to fire as semi-automatics, be prohibited as proposed by Bill C-80.

B. The Disposition of Converted Automatics Now in Private Hands

While the Special Committee agrees that allowing people to retain converted automatics which may be relatively easy to reconvert could pose a danger to public safety, we believe that danger can be dealt with by ensuring that these firearms ultimately end up in the hands of qualified gun collectors. We accept that all of those presently in legal possession of these firearms have been given the impression by the government that they would be allowed to retain them. We therefore believe that grandfathering provisions should be fashioned so as to allow all present owners to retain these firearms for a specified period, but only as registered restricted weapons. During this period, however, they would be required to either transfer these firearms to genuine gun collectors or attain the status of collector themselves. The class of genuine gun collectors would, as recommended later in the report, be properly defined and controlled with regard to such issues as safe storage, so that these and other dangerous firearms would be safe in their hands.

Therefore, under the system proposed by the Special Committee, present owners of converted firearms would, subsequent to the enactment of new legislation, be faced with essentially four choices. They could simply surrender these firearms during an amnesty if they did not wish to retain them. They could register them as restricted weapons and thereafter sell them to properly defined genuine gun collectors during a transitional period. We anticipate that there would be a healthy market among such gun collectors for these firearms. The Special Committee would also recommend that the federal government agree to buy back these firearms, and thus, owners of such firearms would also have the option of selling them to federal authorities.

Alternatively, those registered owners who are not gun collectors, as we will recommend be defined, but who wish to attain that status, could upgrade their storage facilities and meet the other qualifications necessary for recognition as genuine gun collectors. In this way, they could retain these firearms as properly qualified collectors.

In the result, all converted automatics remaining in the country would become registered and restricted to those qualified to possess them. In this way, the Special Committee feels that both the interests of present owners and the interests of public safety would be protected and properly balanced.

RECOMMENDATION 17

The Special Committee recommends that all present legal owners of converted automatics, who do not turn them in during the initial amnesty proposed in Bill C-80, be required to register them by a pre-determined cut-off date, and be allowed to retain them as restricted weapons for a specified period. During this period, the registered owners could sell them to the Government of Canada for the purpose of eventual destruction. The method of valuation would be recommended by the Canadian Advisory Council on Firearms.

RECOMMENDATION 18

The Special Committee further recommends that, other than the Government of Canada, only properly qualified genuine gun collectors would be permitted to accept a transfer of these firearms during the specified period, and when that period expired, only such collectors would be permitted to renew these certificates. Qualified genuine gun collectors would then be allowed to retain these converted automatics so long as they maintained their status as such, and subsequent transfers of these firearms would be limited to others so qualified.

2. MILITARY, PARA-MILITARY AND OTHER SEMI-AUTOMATIC FIREARMS

In addition to the particular concern with converted automatics, many of the witnesses who appeared before the Special Committee expressed a deep concern with the presence in Canadian society of other "weapons of war". By this they meant all military-design firearms, whether manufactured as semi-automatic versions of military weapons, or firearms made to look like military weapons and having at least some of the same capabilities, often referred to as para-military weapons. These witnesses see no legitimate purpose for such firearms in our society. They would like to see them all prohibited on the basis that their high fire-power makes them a danger to public safety, and that their symbolism has no legitimate place in our firearms culture. Some witnesses, such as Mr. Darryl Davies, the representatives of the students and employees of the École Polytechnique, the National Association of Women and the Law and the families of the École Polytechnique victims, also favoured a banning or restricting of all semi-automatics, whether of military-design or not, because of their rapid-fire capability.

Those witnesses representing the owners and users of these firearms expressed equally strong opposition to any prohibition of military-style or other semi-automatics. The Ontario Arms Collectors Association, the Shooting Federation of Canada, the Dominion of Canada Rifle

Association, and the International Practical Shooting Confederation all cited legitimate and safe uses for semi-automatics, including military-design firearms, in both competition shooting and firearms collecting. The International Practical Shooting Confederation, in particular, stated that its competition activities would be severely hampered, particularly for those who are older or handicapped, if semi-automatics were not available. It was also pointed out that placing semi-automatics in the present category of "restricted weapons" under the Criminal Code would prohibit their use for hunting. The Canadian Wildlife Federation, the British Columbia Wildlife Federation and the Federation of Ontario Anglers and Hunters cited bird shooting and the use of semi-automatic rifles by those who are handicapped as examples of at least some need for semi-automatic firearms for hunting.

It is the announced intention of the government to use its existing order-in-council powers to prohibit or restrict military and para-military semi-automatics, primarily because of their high fire-power and their symbolism. The Minister of Justice proposes to ask the Canadian Advisory Council on Firearms to identify criteria or design features, such as night sights, bayonet mountings, folding and telescoping stocks, and pistol grips, which could be used to identify those military and para-military firearms to be prohibited or restricted. The features would serve only as a guide to the classification process, and such factors as the manner in which these firearms were advertised would also be taken into account.

The Minister of Justice opposes, however, the prohibiting or restricting of all semi-automatics, because some of them have legitimate hunting purposes. Instead, it was suggested to the Special Committee that the proposed limits on ammunition magazine capacities would serve as an alternative to specific controls on the firearms themselves. The Committee has a number of difficulties with the magazine capacity proposal, which we will address later in the report, and in general we believe that a more comprehensive approach is needed to deal with the entire question of semi-automatics, including military and para-military weapons.

The Special Committee has a number of other problems with the Minister of Justice's proposals. There is no indication, for example, as to whether or not those military-design firearms to be prohibited would be grandfathered, and some of these firearms are presently completely unrestricted. Any failure to deal with the grandfathering of prohibited firearms in these circumstances would be grossly unfair to all present owners.

Insofar as the Minister of Justice is proposing to leave some of these military and para-military firearms as restricted weapons only, the Special Committee has two concerns. First, this would allow their continued importation and sale. Second, in regard to those military-design firearms which are already in the country, the Committee does not believe that restricting these existing firearms using the present provisions would accomplish what should be the long term aim.

The restricted category presently allows ownership only for particular uses, which include collecting, target shooting and other limited purposes, but not hunting. Those permitted purposes, other than collecting, however, involve the continued use of these guns as working firearms, which the Special Committee believes should eventually be phased out. Most importantly, there is no definition of a "genuine gun collector", and this is the only purpose for which the Committee believes the future ownership of those military firearms already in the country should be allowed. The Committee believes that the public is best protected if ultimately all of those military-design firearms which are preserved, end up in the hands of genuine gun collectors.

The Special Committee believes that the continued importation and sale of all military and para-military semi-automatics should be prohibited once the Canadian Advisory Council on Firearms has determined the criteria for and the content of this class. This may require that the order-in-council prohibition power in the Criminal Code be amended, although the prohibition might be achieved in other ways.

An amendment might be necessary because there is a limitation on the present order-in-council power to prohibit particular firearms. This power does not extend to firearms "of a kind commonly used in Canada for hunting or sporting purposes". The power to restrict weapons is much broader, however, and can extend to any firearm that "in the opinion of the (Cabinet), is (not) reasonable for use in Canada for hunting or sporting purposes" [emphasis added]. The Special Committee recognizes that the limitation on the prohibition power is there to protect those using firearms now regarded as legitimate for any hunting or sporting purpose, and we do not recommend that the prohibition power be made as broad as the present power to restrict.

If it is deemed necessary to change the limitation on the order-in-council power of prohibition, the Special Committee notes that any such changes would have to come before Parliament for statutory amendment. We would also note that any regulatory changes would first have to be submitted to the Canadian Advisory Council on Firearms for consideration, and laid before the House of Commons and referred to the appropriate Committee, pursuant to the recommendations made later in the report.

The Special Committee thus does not disagree with the Minister's proposals concerning military and para-military semi-automatics. We believe, however, that they do not go far enough, and that the means proposed may involve instruments too blunt to achieve the appropriate degree of regulation.

The disposition of those military-design firearms in private hands would be similar to that recommended for converted automatics. There would, however, be no need for a government buy-back provision, because we believe that those who presently own such firearms should be allowed to retain them as restricted weapons even if they are not, and do not wish to become, gun collectors. This would be the major distinction between the treatment which the Special Committee feels is appropriate for owners of converted automatics and that which should be accorded to the owners of other military and para-military firearms.

While the Special Committee believes, as noted earlier, that even these military-style firearms should in the final result be held only by properly-defined gun collectors, we do not believe that it is necessary that present owners be divested of them unless they are or become genuine collectors. Although any further transfers of these firearms should be limited to such collectors, we believe that public safety can be adequately protected by encouraging their sale to genuine collectors, and by requiring that in the interim they be registered and controlled as restricted weapons.

The Special Committee also believes that a comprehensive re-evaluation of all remaining semi-automatic firearms available now and in the future should be carried out by the Canadian Advisory Council on Firearms in order to determine which of these should be in the restricted class. This evaluation should then be used as the basis for future legislative and regulatory action in regard to restricted firearms. The evaluation would be based on a determination of which semi-automatic firearms were appropriate for hunting purposes and which were not. Only those deemed to be

reasonable for use as hunting guns would remain unrestricted, and could of course also be used for such activities as target shooting. The Special Committee believes that this will achieve the proper balance between public safety and the interests of those who wish to use semi-automatics for various purposes. Those semi-automatics which were not left unrestricted could still be used for target shooting and collecting, but would be registered and subject to control as restricted weapons.

RECOMMENDATION 19

The Special Committee recommends that, in addition to the prohibition on converted automatics, a prohibition be imposed as soon as possible on the further importation and sale of all semi-automatic firearms found by the Canadian Advisory Council on Firearms to fall within the military and para-military class.

RECOMMENDATION 20

The Special Committee further recommends that those military and para-military firearms presently in private hands be subject to the following four options. The present owners could turn them in during an amnesty, sell them to a licensed collector, or become a licensed collector, and all such firearms held by a licensed collector would be registered as restricted weapons. If the present owner elected to retain these firearms without becoming a licensed collector, that person would be allowed to do so provided that the firearms were registered as restricted weapons, subject to any future transfer being limited to a licensed collector.

RECOMMENDATION 21

The Special Committee further recommends that the Canadian Advisory Council on Firearms be asked to undertake a comprehensive re-evaluation of all other semi-automatic firearms presently available in Canada, or which anyone might import in the future. Those found to be inappropriate for hunting purposes would become restricted weapons.

3. "GENUINE" GUN COLLECTORS

Section 109 of the Criminal Code allows the possession of restricted firearms only for certain purposes — to protect life, for use in a lawful occupation, for target shooting at a gun club or under specified conditions, or for the collections of "genuine gun collectors". While the range of uses is thus restricted to collectors, among others, there is no definition of a genuine gun collector. The Special Committee believes that a specific sub-category of licensed collectors who own restricted weapons is absolutely necessary to ensure that those in possession of particular kinds of firearms, or large numbers of restricted firearms, are subject to appropriate screening and regulation.

The Special Committee has alluded throughout this report to the problems created by a lack of any definition of "genuine gun collectors". Many witnesses pointed to this critical gap in the present legislation, and urged that the term now be properly defined. Other witnesses agreed that the lack of a definition created problems, but suggested that the nature of the activity eluded any precise definition.

The Special Committee cannot stress enough the importance of a meaningful definition of this class of firearms owners. The Committee is sensitive to the concerns of witnesses such as the Ontario Arms Collectors Association that the activities of collectors are varied and not easily susceptible to a workable description. The Committee recognizes that any definition that is too strict or too precise could exclude many present or would-be genuine collectors. Nonetheless, we believe, for at least two reasons, that the best definition that can be formulated must be devised and implemented on an urgent basis. First, the term now appears in the Criminal Code, and allows individuals to own otherwise restricted firearms, including, in some cases, grandfathered fully-automatic firearms. If the term simply cannot be defined, it should be removed from the Code and some other basis found for these individuals to have access to restricted firearms for the purposes of their collections.

Second, the Special Committee has recommended that converted automatics be entirely prohibited, and that when the prohibition is implemented, those in private hands be restricted to collectors after a specified transitional period. We have further recommended that imports and sales of all other military and para-military firearms be prohibited, but that when the designation is made and implemented, those now in the country also not be removed from the system. Rather, we have recommended that all of these firearms be moved gradually into the hands of a class of gun collectors who can continue to pass them on to other present or future collectors, but only if appropriate qualifications and controls are defined and implemented. Only then can public safety be safeguarded while allowing collectors to own such potentially dangerous firearms.

The Special Committee is cognizant of the extreme complexity involved in developing a workable definition of genuine gun collector. We thus recommend that the Canadian Advisory Council on Firearms be asked to develop such a definition. The Special Committee further believes that such a definition would not be suitable for inclusion in the Code itself, and would have to be implemented by regulation. We note, however, that the regulations would, pursuant to the recommendation made later in the report regarding all future regulatory action, have to be submitted to the Advisory Council for consideration before being enacted. As experience showed that changes were necessary, the Council could consult on these changes, and regulations would provide a flexible instrument for their implementation.

Although the final task would be left to the Canadian Advisory Council on Firearms, there are several elements of a definition, and the manner in which it should be implemented, that the Special Committee would propose. We suggest that a separate "Collector's Licence" be developed, as recommended by the Service Rifle Association. Criteria should be developed to guide the local registrar in determining whether such a licence should be issued. None of these criteria would be regarded as absolute requirements, each of which had to be fulfilled. They would, however, provide a basis for questioning the applicant that would enable the registrar to form a judgement as to whether the applicant qualified as a collector. For example, collectors generally have a theme to their collections, collect reference books and other materials, belong to some form of organization, have had a substantial period of exposure to firearms before they begin collecting, collect a relatively large number of firearms, and fire their collectible firearms only rarely at special display events.

On the basis of these criteria, the registrar could both certify an existing collector, and make a judgement as to whether a would-be collector intended to acquire firearms for that purpose. The Ontario Arms Collectors Association has suggested that a collector is "an individual who displays an enthusiasm for the acquisition of firearms related by one or more common characteristic such as,

design, manufacture, period, country of origin, calibre, etc, the primary purpose of which is something other than the use of such firearms on a regular basis" [emphasis added]. A local registrar should be able to determine whether an existing collector meets such a definition through an interview and an inspection of the collection if necessary. A probationary licence could be issued to a would-be collector, and the matter reviewed after a period of one or two years. The probationary licence would be subject to cancellation if the original expressions of particular enthusiasm and intended use did not appear to have been acted upon. Any refusal to issue a collector's licence, or any revocation of a probationary licence, should be subject to the same sort of appeal process as presently applies to FACs and restricted weapon registration certificates.

Other conditions for the maintenance of a collector's status have been suggested. It has been proposed that all collectors should be required to belong to an association that screens and restricts its own membership, such as the Ontario Arms Collectors Association, and that such organizations should be authorized by provincial authorities in the same manner as gun clubs. Membership should also be confirmed annually or at least periodically. While this could hamper those remotely located, it should be looked at as a requirement for those who have particularly dangerous firearms, such as grandfathered automatics or converted automatics, in their collections. So long as the organization took some responsibility for screening members, contact between some members and the organization could be minimal.

It has also been suggested by the Service Rifle Association that collectors be required to maintain a current inventory of their collections and records similar to those required of firearms dealers. It was also suggested that safe storage requirements equal to those of firearms dealers apply as well. Whether or not this particular level of security is appropriate for collectors, the Special Committee strongly recommends that strict safe storage requirements be an essential element of a collector's licence.

RECOMMENDATION 22

The Special Committee recommends that the Canadian Advisory Council on Firearms develop a definition of "genuine gun collector" and the conditions which should attach to the maintenance of such a status, and that the Department of Justice devise regulations to implement the definition and conditions of application. The Committee further recommends that a collector's licensing system be considered, having regard to the Committee's suggested criteria. The Committee further recommends that the regulations be laid before the House of Commons and referred to the appropriate Committee before being implemented.

4. SAFE STORAGE OF ALL FIREARMS

Bill C-80 has one provision that deals with the safe storage of restricted firearms, but only tangentially. Clause 19(3) would require genuine gun collectors applying for a restricted weapon registration certificate to show that they have complied with the safe storage regulations. While the Special Committee welcomes this small additional step, it is wholly inadequate to deal with the overall problem of safe storage of firearms.

The question of safe storage was a primary area of concern to witnesses from all perspectives. Like competency and safety training, it is seen as a key to ensuring the responsible use of firearms and minimizing the effects of their misuse. The government proposal extends only to gun collectors

because, besides dealers, museums, and shippers, they are the only ones presently subject to safe storage requirements (pursuant to the regulation-making power in section 116(g) of Part III of the Code). There is at present no power to apply such requirements even to other classes of restricted firearms owners, including owners of handguns, much less to those who own unrestricted firearms.

The Canadian Association of Chiefs of Police, the Canadian Police Association, Staff Inspector Crampton, Canadians for Gun Control, Canadians for a Safer Canada, the National Association of Women and the Law, and the representatives of the students, employees and families of the victims of the École Polytechnique, all urged that strengthened and expanded safe storage requirements be applied to all firearms owners. They cited the problem of firearms stolen from their legal owners being used in criminal activities, and while there are no comprehensive statistics available in this regard, it is clear that the theft from homes and cottages of inadequately secured firearms, of all classes, is a major problem.

One suggested solution to the problem was that central depositories be established, at least in urban areas, wherein all firearms would be stored when not in use. The Minister of Justice indicated that this concept was being studied, and that depositories might be appropriate in urban areas for hunting firearms which are only used at certain times of the year. The Special Committee believes, however, that this concept would simply not be workable, and that standards applicable to all the different settings in which firearms are stored would be a more effective approach.

The Special Committee believes that the safe storage regulations that presently apply to gun collectors are inadequate and must be considerably strengthened. For example, they now permit storage in a "securely locked display case", but there is no indication that the display case must be made of unbreakable glass or be otherwise protected. Case law interpreting these requirements has made the situation even worse. For example, the regulations require, as one alternative, that the firearms be "in a securely locked location", and we were informed of one case in which a locked house was found to be sufficient compliance with the requirement.

It has been suggested that gun collectors should be required to attain the same level of security as firearms dealers. As noted earlier, a determination of whether or not this is the appropriate standard must be left for further consideration. In any case, there is no question that the level of security applicable to gun collectors must be quite strict. The requirements might include a separate secure room, protected by an alarm system, the removal of breech blocks, ammunition stored in another part of the premises under lock and key, and trigger locks. These facilities could be subject to annual inspections by a firearms officer, and the collector's inventory checked against records which he or she would be required to maintain.

Moreover, the Special Committee believes that significant storage requirements should be extended to other categories of restricted firearms owners, and that at least minimal requirements should apply to unrestricted rifles and shotguns as well. Although collectors may possess a broader range and greater number of restricted firearms, handguns and other kinds of restricted firearms stolen from owners other than collectors also present a danger. Unrestricted firearms are also a significant factor in suicides, accidental deaths and injury, particularly involving children, emotionally-charged domestic violence, and in the commission of crimes when stolen.

The final delineation of safe storage standards appropriate to all circumstances would have to be left to regulations designed by the Department of Justice in consultation with the Canadian Advisory Council on Firearms, and submitted to the Advisory Council for further consideration

before enactment. Such standards would have to take account of the different considerations pertaining to rural as opposed to urban areas, the nature of the security required in regard to different kinds of firearms, and the feasibility of owner compliance.

Many ideas were suggested for safe storage requirements that could be applied to all firearms owners. Those leaving their cottages or homes for long periods of time could store their firearms in established facilities available at local ranges. Alternatively, trigger locks could be installed either on the firearm itself or mounted on a gun rack. Trigger locks for individual firearms are available for most, if not all, models, and can be purchased for approximately $13 to $15. This is one approach that could be considered as a minimal requirement for all firearms owners. Whatever standards are developed, they must be realistic enough that each class of firearms owner can meet them in whatever manner is appropriate given their particular circumstances. There should, for example, always be more than one manner in which an owner can meet the general standard applicable. Therefore, while the standard itself must be specific, the manner of compliance should be left as much as possible up to voluntary choices.

RECOMMENDATION 23

The Special Committee recommends that section 116 of the Criminal Code be amended to authorize the application of safe storage requirements to all firearms owners. The Committee further recommends that the Department of Justice, in consultation with the Canadian Advisory Council on Firearms, design and implement regulations providing for safe storage standards that are appropriate in various circumstances and can be complied with by the owners affected by each standard. The Special Committee also recommends that the regulations be laid before the House of Commons and referred to the appropriate Committee before being implemented.

5. CONTROLS ON "DEVICES"

Bill C-80 would amend the order-in-council power to prohibit weapons, and extend it to "devices" which are not complete firearms. Clause 2(4) would add this power to the definition of "prohibited weapon" in section 84(1) of the Criminal Code. The term "device" is not defined, and this was apparently intended to give maximum flexibility to its application. Designation as a prohibited weapon is a very serious matter, as the class presently includes silencers, sawed-off rifles and shotguns, and fully-automatic weapons. The Minister of Justice has proposed that this new power be used to prohibit large capacity ammunition magazines, and that issue is dealt with in the following section of the report. The power could also be used, however, to prohibit other parts and accessories of firearms that increase their fire power. Witnesses who came before the Special Committee suggested a few other "devices" that might be banned using this provision, such as armour-piercing ammunition, but the primary issue of concern was the breadth of the potential power that this amendment would give to the government. Even the Minister of Justice acknowledged that a definition, or a more restricted term, might be appropriate.

While the members of the Special Committee might be disposed to authorizing the prohibition by regulation of such things as armour-piercing ammunition, we are concerned that the term "device" is indeed too broad and its object too indistinct. Moreover, armour-piercing ammunition is

apparently simply not available in Canada except to the military and the police. Nevertheless, there may be things which do not constitute complete firearms, such as night sights, that have no legitimate purpose and which could be used to make a firearm even more dangerous to public safety. The Special Committee suggests, however, that any power to prohibit such devices would best be exercised by regulation, which would ensure flexibility. This makes it even more important that there be as much certainty as possible as to the scope of the power.

The purpose of the proposed power must be better defined, and its ambit appropriately circumscribed. The Special Committee thus recommends that the term "device", and the criteria pursuant to which the power would be used, be set out in regulations. The Code would also have to be amended to provide for this. Because of the potential for an overuse or abuse of such a power, and because of the controversy that its proposed application to ammunition magazine capacities has produced, the Special Committee would, however, accept such a process only as long as the regulations defining the power were laid before the House of Commons for approval.

RECOMMENDATION 24

The Special Committee recommends that the Department of Justice, in consultation with the Canadian Advisory Council on Firearms, develop regulations defining the scope of the term "device", and the criteria pursuant to which a power to prohibit "devices" by order-in-council would be used. The Special Committee further recommends that the regulations be made "subject to affirmative resolution of the House of Commons" pursuant to section 39(1)(b) of the Interpretation Act.

6. AMMUNITION MAGAZINE SIZE LIMITS

The Minister of Justice has announced that the government intends to prohibit large capacity ammunition magazines used in semi-automatic firearms, under the power which Bill C-80 would grant to prohibit "devices". The proposed limits are 10 for all handgun magazines, and 5 for centrefire long gun magazines. The limits would thus not extend to low-velocity, low-calibre rimfire rifles such as the standard .22 calibre. The Minister advised the Special Committee, however, that no firm decision has yet been made on the precise limits and the criteria for their application.

Perhaps no other single issue was more controversial than this one in all of the hearings, particularly to hunters and competition shooters. The government's concern is with the rapid-fire capability that large capacity magazines give to any semi-automatic firearm. The Minister suggested that magazine limits were an alternative to prohibiting or restricting semi-automatic firearms entirely. The Minister's view is that large capacity magazines have no legitimate hunting or sporting use, and that they pose a danger to public safety. It was noted, for example, that Marc Lépine used two 30-round magazines in his rampage at the École Polytechnique, and it was suggested by the representatives of the families of the victims of that tragedy that the death toll might well have been less if only smaller magazines had been available. It was also strongly argued by the Minister and the victims' families that the effect on hunters and recreational shooters of the proposed magazine limitations would be both reasonable and minimal.

The Special Committee is sensitive to these concerns, and sees no legitimate reason for the availability of magazines in the order of 30-round capacities. We are concerned, however, that the prohibition approach suggested by the Minister might not be workable and enforceable, and that the limits proposed would unduly hamper the legitimate activities of some classes of firearms users.

Much of the opposition to the government's proposal centred on the specific limits suggested. Concern was expressed with the effect of the limits on rifles with built-in magazines of a capacity over 5 that could not be altered and could thus become effectively prohibited. Although the Department of Justice suggested that hunting rifles with built-in magazines of a capacity of more than 5 are uncommon, they do apparently exist, and it was not clear what the extent of this presumably unintended effect would be. While the limits could be applied only to detachable magazines, this would produce anomalies that could undermine the rationale for the proposal.

Competition shooters argued that most competition shooting involves magazines of a capacity greater than the proposed 5 and 10 limits. The International Practical Shooting Confederation, in particular, asserted that such limits would shut down many of their activities. They stated that they use 10 to 17 round magazines in their competitions, and that many of the more modern handguns that they use have magazines with more than 10 rounds.

Other witnesses charged that the proposed limits would simply be unfeasible as proposed. The limits are based on whether the magazine is intended for a handgun or a long gun, and some magazines are interchangeable. The Department of Justice asserted that such magazines are rare and could be separately dealt with, but so long as the problem of interchangeability exists there will continue to be anomalies and problems of interpretation that could place legitimate firearms users in unnecessary criminal jeopardy. Future developments in both firearm and magazine manufacturing could also exacerbate the problem.

Magazines are also unmarked and thus untraceable. This would make enforcement difficult, and it would mean that distinctions could not be made on the basis of certain magazines being registered as restricted. No method apparently exists at present for identifying particular magazines so as to make such distinctions. Mr. Murray Smith, the firearms expert from the R.C.M.P., acknowledged that the problems of interchangeability and untraceability, compounded by the several million ammunition magazines that are already in the country, would make any limits very difficult to administer and enforce.

Collectors cited the effect of any limits on the authenticity and value of collectible firearms and certain magazines, some of which are extremely valuable. Compensation has not been offered by the government, but this would seem to be out of the question in any case because of the sums that would probably be required. The Department of Justice has suggested that magazines designed for certain non-semi-automatic firearms, but which fit some modern semi-automatics, such as the 10-shot Lee-Enfield, would be exempted. This would deal with some of the concerns of users of Lee-Enfields, but the interests of collectors are much larger. The Special Committee is of the view that large capacity magazines are not a danger to public safety in the hands of properly-defined and regulated gun collectors.

The Special Committee is concerned that the actual limits proposed by the government are unnecessarily low, and would detrimentally affect legitimate shooting sports that pose no danger to public safety. The Committee is also skeptical that limits based purely on the size of the magazine would be workable. We thus propose that the limits be larger, that they be tied to the activities engaged in by the user, and that special authorization be required for the acquisition of magazines in excess of our proposed basic limit. In particular, we believe that hunters should be permitted to use up to 10-shot magazines, competition shooters up to 20-shot magazines, and that genuine gun collectors be unrestricted. These limits could be imposed by way of restrictions placed on the sale of

magazines, and authorizations to purchase magazines larger than those permitted would be specified on the FAC or restricted weapon registration certificate of the owner seeking the magazines. As 10-round magazines would be permitted for hunting and all other purposes, the restrictions would apply only to magazines with a capacity larger than 10.

RECOMMENDATION 25

The Special Committee recommends that the sale of magazines up to a capacity of 10 be completely unrestricted. The Committee further recommends that only competition shooters, whose FAC or restricted weapon registration certificate shows that they are so authorized, be allowed to acquire magazines up to a capacity of 20. Licensed gun collectors should be allowed to acquire magazines of any capacity, but further importations of magazines of a capacity over 20 would be prohibited, so that only those over-capacity magazines now in the country would be available for further acquisition by such collectors. An appropriate scheme of regulations and penalties would be devised to ensure that licensed firearms retailers did not sell over-capacity magazines to non-authorized purchasers, and that these magazines were not otherwise available.

7. AMNESTIES

Bill C-80 would provide for an amnesty period during which newly-prohibited converted automatics could be surrendered without penalty. While there was general support for such a provision among the witnesses who appeared before the Special Committee, some recommended that the legislation go even further by providing for a broader amnesty power.

The Special Committee is aware of the fact that firearms amnesties have been administratively instituted or proposed in a number of Canadian cities, but that the authority for such local amnesties is questionable. Therefore, a general amnesty would provide uniform access to this opportunity across the country. A permanent general amnesty has been suggested, but this could hamper overall enforcement of the firearms provisions of the Criminal Code. We believe, however, that a provision which would allow for periodic general amnesties would be effective in helping to clear unused or illegal firearms out of Canadian society.

Pursuant to a general amnesty provision, the Governor in Council would be empowered to proclaim, on a periodic basis, an amnesty period during which any firearm, legal or illegal, could be surrendered with no questions asked.

RECOMMENDATION 26

The Special Committee recommends that a power to declare periodic general amnesties be added to the Criminal Code. The Special Committee recommends that amnesty periods be declared every few years.

CHAPTER 4

ADVISORY COUNCIL ROLE AND REGULATORY PROVISIONS

1. THE CANADIAN ADVISORY COUNCIL ON FIREARMS : PRESENT AND RECOMMENDED MANDATE

The Minister of Justice has already announced the establishment of an advisory group called the Canadian Advisory Council on Firearms, chaired by the Honourable Jacques Flynn. The anticipated role of the Council is to advise the Minister on the implementation of the measures contained in Bill C-80 and its accompanying package of regulatory proposals, and on the further development of the firearms control system. The Special Committee welcomes the creation of this Council, and endorses the referral to the Council of the matters which the Minister has already announced will be the first issues to be dealt with by it. The Committee would, however, like to see its initial agenda broadened even further. More importantly, we believe that the Advisory Council should be given even greater primacy in the development and implementation of changes to our firearms laws.

The announced mandate of the Advisory Council "will include reviewing and making recommendations affecting national policy, legislation, procedures and regulations under the firearms control provisions of the Criminal Code." The Council will, for example, be "instrumental" in helping to develop national standards for firearms competency and safety training, and in establishing the criteria to be used in regard to regulatory action to restrict or prohibit particular military and para-military firearms. It has also been asked to look at such issues as the confidentiality, privacy and ethical questions arising from the proposed use of medical or psychological information to screen FAC applicants.

The membership of the Advisory Council is broad and varied in terms of its representation of the different interests involved across the country, and in all of its regions, and in the expertise which it will provide. The Chairperson is a former federal Minister of Justice. There are two Vice-Chairs from Ontario and Saskatchewan, and one of them is Linda Thom, the Olympic gold medallist in competition shooting. It also includes a police chief active in the Canadian Association of Chiefs of Police, a lawyer active in the Canadian Wildlife Federation and other hunting and shooting organizations, university professors, a public health physician, hunters, competition shooters, firearms dealers, a gunsmith and a hunter education instructor. This expertise should, we believe, be given a primary role in the making of the decisions which must be faced now and in the future.

Many witnesses appearing before us represented the hunters, target shooters, and collectors who are the firearms owners and users of this country, and thus represent the collective expression of much or most of the expertise available in regard to firearms matters. One theme that ran through much of their testimony was a belief that they had not been adequately consulted on the government's package, and that the appropriate expertise had not been brought to bear in fashioning fair and workable proposals to produce a more effective system.

The Special Committee does not wish to enter the debate as to whether the firearms community was sufficiently consulted by the government in the development of its package. We think it is of paramount importance, however, that this community feel that its interests are being adequately represented and its expertise drawn upon to the degree necessary to ensure effective firearms legislation. Any changes in the system are unlikely to be effective if they do not enjoy the respect and cooperation of responsible gun owners and users.

The interests and expertise of this community are represented on the new Advisory Council. But that is only one aspect of the membership of the Council. It also represents the public interest in general, including the interests of those who are not firearms owners or users. It represents the urban, rural and regional perspectives of Canada. It is in this forum that we believe the complex and controversial questions that must be tackled in order to produce a better system can best be dealt with. The Special Committee would also stress the need for the Advisory Council to consult with the aboriginal community on a regular basis. In view of the fact that firearms are an integral part of the livelihood of many aboriginal people in this country, the Council must ensure that their special rights, which are protected by the Constitution, are adequately addressed and ensured.

The Special Committee has recommended that a number of particular issues be referred to the Advisory Council. Some of these questions are: the appropriate FAC application and renewal fee; determination of the class of military and para-military firearms; decisions as to those non-military semi-automatics which are suitable for hunting; the establishment of a definition and conditions to be applied to genuine gun collectors; safe storage requirements; and an appropriate regulatory power to deal with "devices".

There are many other questions which may have to be referred to the Advisory Council. The Special Committee believes that the Council can discharge such a widened mandate without the necessity of a permanent and costly bureaucracy. The Council may have to commission other experts or consultants to study such matters as a cost-analysis of the FAC system for the purposes of setting and changing the appropriate fee. In general, however, the Council should be able to bring its own expertise to bear on the technical work of others through regular consultations and meetings. Its heaviest involvement will be over the next few years as the firearms system is changed and as such changes are implemented. After that, its monitoring and development role should be less onerous, but no less critical.

The Minister has announced that the Advisory Council will provide a "non-governmental perspective" [emphasis added] on Canada's system of firearms control. The Special Committee believes that the Council can do more than provide a "perspective". We expect that the Council will make substantive and detailed recommendations to the government which we expect the government will make the basis of the statutory and regulatory changes it designs and implements. While the government must make public policy, many of the issues which must be resolved are of such a technical nature that we believe the Council's recommendations should be the primary guidance used in the development of much of this policy.

The Special Committee also believes that the Advisory Council should submit an annual report to the Minister of Justice outlining the work it has undertaken and the recommendations it has made in the previous year. This report should be laid before each House of Parliament by the Minister and, in this way, members of both Houses will not only be made aware of the existence of the Advisory Council, but they will also have notice of its particular activities and findings.

An advisory council called the National Advisory Council was formed after the present firearms control regime was adopted in 1977. That council was not able to play a major role in evaluating and recommending changes to the new regime, and soon became moribund. Some of its members charge that it was simply not listened to. This must not happen again.

RECOMMENDATION 27

The Special Committee recommends that the newly-established Canadian Advisory Council on Firearms be given an extended mandate, and a primary role in the development, implementation and monitoring of any changes to our present system of firearms control, including those presently under consideration and those which may be made in the future. The Special Committee further recommends that the Advisory Council submit to the Minister of Justice an annual report on the activities of the Council which the Minister must table before each House of Parliament.

2. USE OF REGULATORY PROVISIONS

An additional constant theme of those who opposed elements of the government's proposed package of measures was the extent to which they would be implemented by "order-in-council", which are regulations made by the Governor in Council, the federal Cabinet. Much of this concern revolved around the two controversial proposals that the fee for an FAC be set by regulation, and that "devices" be prohibited by Cabinet order. The second of these proposals was, as noted earlier, perhaps the most controversial in the entire package. Not only does the term "device" appear to be rather all-encompassing, but the government's announced intention in regard to the initial use of such a power would involve limiting the size of ammunition magazines, thereby making large capacity magazines prohibited weapons. Several witnesses protested vigorously against any such restrictions, but particularly if they were to be imposed by regulation rather than in the Criminal Code itself.

The concern of these witnesses is that regulations will be made without sufficient input from the firearms community, and enacted by Cabinet without Parliamentary scrutiny. The Special Committee is sensitive to these concerns, but we believe that there are a number of issues which can be best addressed in regulatory provisions. Regulations not only allow for more detailed provisions and fine distinctions, but they can also be amended more regularly as experience shows that changes or additional provisions are necessary. It must not be forgotten that Part III of the Criminal Code has not been substantially amended for over 13 years.

There is thus a strong argument for the greater use of regulations in regard to firearms control for at least two purposes. The first is to define circumstances and requirements that cannot be adequately dealt with in a statute. Matters such as a definition of a genuine gun collector, safe storage requirements suited to particular firearms and firearms owners, and national training standards can all be dealt with in regulations, and there will then be sufficient flexibility in the process to allow the provisions to be subsequently fine-tuned so as to be made both workable and fair.

The second purpose for regulations is to ensure as much uniformity as possible in the interpretation and administration of firearms laws. We have alluded earlier to the problem of inconsistency in the screening of FAC applications between provinces and even between different

areas within individual provinces. The same problem of inconsistency has arisen in many other areas of the administration of Part III of the Code. For example, one of the provisions of Bill C-80 would define barrel length for the purposes of the definitions of prohibited and restricted firearms. Differences in the approach to barrel length — primarily whether to include extensions to the original barrel — have led to firearms being considered restricted in some provinces and unrestricted in others. As the possession of an unregistered restricted weapon is a serious criminal offence, such inconsistencies in interpretation and application cannot be permitted. So long as such issues must be dealt with in the Code itself, however, it will continue to be difficult to deal with these inconsistencies, and their resolution will continue to be delayed.

The use of regulations can thus be very much to the benefit of firearms owners. When matters such as inconsistent interpretations of critical factors like barrel length arise, they can be dealt with relatively quickly in regulations. When requirements imposed by regulation prove to be unworkable or unduly onerous, they can likewise be dealt with more quickly and flexibly. Those who administer the system have been urging for some time that regulations be used to deal more effectively with certain problems. The Chief Provincial Firearms Officers who appeared before us acknowledged the problem of lack of uniformity in interpretation and administration, and pleaded for more use of regulations in the interests of both an effective system and in the interests of the firearms owners subject to it.

The Special Committee thus believes that more certainty in the system is required. There should be as much certainty and consistency in the Criminal Code itself, but where this is not feasible, the use of regulatory powers will be necessary. The Committee believes, however, that the regulation-making process must be as transparent as possible to ensure that the interests and expertise of firearms owners are duly taken into account when regulations are both made and amended. We believe that the primary role which we have recommended for the Advisory Council affords one opportunity for ensuring this, and therefore we recommend that all regulations should be put before the Council for consideration before being enacted.

In addition, as noted earlier in the report, the Special Committee recommends that those regulations developed with respect to the definition and status of a genuine gun collector, and those pertaining to safe storage requirements, must be laid before the House of Commons and referred to the appropriate Committee before being implemented. With respect to those regulations defining the scope and criteria of the power to prohibit "devices" by order-in-council, the Committee recommends that they be made subject to affirmative resolution of the House of Commons pursuant to section 39(1)(b) of the Interpretation Act. The Special Committee further recommends that all other regulations made pursuant to Part III of the Code should also be laid before the House of Commons and referred to the appropriate Committee before being implemented.

RECOMMENDATION 28

The Special Committee recommends that there be as much certainty as possible in the Criminal Code itself. Furthermore, the Committee recommends that where detailed or technical provisions are inappropriate for inclusion in the Code, or where it is necessary to ensure certainty and consistency, use should be made of regulation-making powers. The Special Committee also recommends that all regulations, in addition to those specifically addressed earlier in the report, made pursuant to Part III of the Code be submitted to the Canadian Advisory Council on Firearms and laid before the House of Commons and referred to the appropriate Committee before being implemented.

CHAPTER 5

CONTROLLING AND DETERRING THE CRIMINAL USE OF FIREARMS

1. INTRODUCTION

Many of the witnesses appearing before us, while critical of the measures contained in the government's proposed package of changes to the system of firearms regulation, were even more critical of what was not being proposed — action on criminal use of firearms. Even most of those witnesses who saw the government's package as a step forward in the protection of public safety, agreed that there was a need for tougher penalties and stricter enforcement of the laws penalizing those who use firearms in the commission of crimes.

The government's proposals are aimed primarily at limiting the legal availability of certain firearms, and strengthening the screening process for the legal access to all firearms. The package of recommendations made by the Special Committee in the previous chapters of this report is also aimed at achieving what we regard as an even more effective system than that proposed by the government to ensure the responsible and safe ownership of firearms. We agree, however, with those witnesses who felt that more attention should be concentrated on deterring the criminal use of firearms by severe penalties and strict enforcement of the criminal offences which are already provided for in the Criminal Code.

Witnesses from all perspectives, but particularly those who are legitimate users of firearms, were dismayed and often outraged that the present laws that are intended to deter the criminal use of firearms are not being adequately enforced. The Special Committee agrees with these witnesses that these laws are not being taken seriously and not applied with the severity that society has a right to expect. We regard this situation as intolerable, and demand that every effort possible be made on an urgent basis to attack directly the criminal use of firearms.

The Special Committee has also heard evidence that our borders are so porous that the smuggling of firearms into Canada is virtually unchecked. Many witnesses alleged that this was a primary source of firearms used in the commission of crime in this country. The Committee also regards this situation as being intolerable. We sound again a note of warning which we sounded at the beginning of this report. All of the measures which we recommend to regulate the safe ownership of firearms in Canada will be to no avail if smuggling provides a ready source of guns to be used in crime, and if the criminal use of smuggled, stolen or legally obtained firearms is not severely dealt with.

2. FIREARMS OFFENCES

Part III of the Criminal Code sets out various offences and penalties for the misuse of firearms. Section 85 of the Code is the principal provision dealing with the intentional use of guns in the commission of crime. The section makes it an indictable offence to use a firearm during the

commission of an offence or an attempt to commit an offence, or during flight thereafter. Such an offence is punishable, if it is the first time, by a minimum term of imprisonment of one year and a maximum of fourteen years. Subsequent convictions are punishable by a minimum of three years and a maximum of fourteen years imprisonment. Any sentence imposed under section 85 is to be served consecutively to any other sentence imposed for an offence arising out of the same event or series of events. Therefore the section provides for a mandatory minimum and consecutive sentence.

On its face, this section would appear to provide a significant deterrent to the use of guns in crime. Some witnesses appearing before the Special Committee alleged, however, that a charge under this section is rarely proceeded with, assuming that it has been laid, and that few of the minimum consecutive terms of imprisonment are ever actually imposed. They assert that the process of plea-bargaining results in most section 85 charges being withdrawn in return for a deal on the primary offence of, for example, robbery or sexual assault. Although the extent to which section 85 charges are plea-bargained away is not clear, the Special Committee has no doubt that it happens far too often.

The process of plea-bargaining in general is not well understood or accepted by the public, and many of the witnesses we heard from regarded as incomprehensible the extent to which it appeared to blunt the enforcement of section 85. They thus demanded that the process not be allowed to interfere with the enforcement of this provision. Some witnesses urged that the application of section 85 be made mandatory, with no plea-bargaining being allowed.

The Special Committee also finds the extent to which plea-bargaining frustrates the intent of section 85 to be clearly unacceptable. In enacting section 85, Parliament affirmed its will that the use of a firearm in the commission of an offence should always attract a mandatory additional term of imprisonment, and Parliament's will, and the expectations of Canadians, must not be ignored.

The Special Committee also cannot ignore, however, that the administration of justice is a matter of provincial jurisdiction. It is Crown Attorneys, subject to the direction of provincial Attorneys General, who deal with section 85 charges in the course of administering the Criminal Code. Moreover, we recognize that there must always be an element of discretion in the decision as to whether any charge is to be laid or proceeded with. Charges for all types of offences are often withdrawn for entirely sufficient reasons such as, for example, simple lack of evidence. The plea-bargaining process is not a formal one under the Code, and it cannot be eliminated entirely because it is only one of a number of informal processes that lead to Crown Attorneys exercising their discretion to withdraw charges. The Special Committee believes, however, that it is possible to control the process of plea-bargaining, and that this must be done in the case of section 85.

Crown Attorneys must be made to take section 85 more seriously. The Special Committee therefore urges the Minister of Justice to begin consultations immediately with the provincial Attorneys General in order to ensure that they develop and implement guidelines or directives to Crown Attorneys requiring that section 85 charges be laid whenever firearms are used in the commission of criminal offences. Moreover, the Committee suggests that Crown Attorneys be required to obtain the consent of the provincial Attorney General before a section 85 charge is withdrawn.

The Special Committee also strongly believes that there is an urgent and overriding need for much tougher penalties for offences involving firearms. In order for section 85 to be an effective deterrent, the Committee believes that the minimum sentences set out in the section must be

increased to a three year minimum for first offences, and a five year minimum for subsequent offences. The Committee is thus recommending a tripling of the mandatory jail term for a first offence involving a firearm. Sentencing under this provision must continue to be consecutive to any other sentences arising out of the same events. We stress that such sentence increases are an essential component of our overall firearms control package.

Finally, we note that the federal government has been considering general parole and sentencing issues since 1987, when the Canadian Sentencing Commission reported. Since then, the Standing Committee on Justice and Solicitor General has studied and reported on these issues, and the government, in response, published a Green Paper in 1990. The Special Committee urges the federal government to proceed as soon as possible to act upon the Standing Committee's report. Sentencing law and practice must be improved to assure better public protection from all types of criminal acts.

RECOMMENDATION 29

The Special Committee recommends that with respect to section 85 of the Criminal Code, the minimum mandatory sentences therein be increased to three and five years respectively (from one and three respectively) and that these sentences retain their consecutive feature relative to other sentences imposed as a result of the same event or series of events. The Special Committee further recommends that the Minister of Justice work with the provincial Attorneys General in establishing a set of firm directives for Crown Attorneys which would require the laying of section 85 charges whenever firearms are used in the commission of criminal offences. Moreover, the consent of the provincial Attorney General would be required before a section 85 charge could be withdrawn.

3. PROHIBITION ORDERS

Prohibition orders attempt to prevent the criminal or unsafe use of firearms by making it illegal for those subject to them to be in possession of firearms or ammunition. They are mandatory in some cases, and discretionary in others, and are imposed on those convicted of offences involving violence, and offences involving the use, carrying, possession, handling, shipping and storing of a firearm or ammunition. They also apply when a judge upholds a firearms officer's refusal to issue an FAC.

Section 100(1) of the Criminal Code presently provides for a mandatory order prohibiting the possession of a firearm or ammunition by anyone convicted of an indictable offence involving violence, for which the offender may be sentenced to ten years or more. It also applies to instances of an offence committed under section 85 of the Code. Bill C-80 proposes to grant the sentencing judge the discretion not to impose a prohibition order where it is not desirable in the interests of the safety of the offender or any other person that the order be made, and the circumstances are such that it would not be appropriate to make such an order. In considering whether the circumstances render a prohibition order inappropriate, the judge is directed to consider whether the offender needs a firearm for sustenance or that of his or her family, and whether the order would constitute a virtual prohibition against employment in the only vocation open to the offender. The bill further provides that any court exercising this discretion, and not imposing a prohibition order, must provide reasons for so doing.

A similar discretionary element would be added to section 100(7) of the Code when a judge upholds a firearms officer's refusal to issue an FAC. The Special Committee acknowledges the concerns expressed by some of the witnesses who appeared before us that such prohibition orders should be mandatory. The Committee believes, however, that the discretionary powers accorded a sentencing judge pursuant to Bill C-80 are carefully circumscribed and thus ensure a principled and balanced approach to this area.

The Special Committee believes, however, that the duration of prohibition orders should be much longer where the person is guilty of an offence that gives reasonable ground to fear that the person is likely to abuse the privilege of firearms possession. The Committee thus recommends that the duration of the prohibition order imposed under section 100(1), now five years in the case of a first conviction and ten years in the case of subsequent convictions, should be extended to ten years and a life prohibition respectively.

RECOMMENDATION 30

The Special Committee recommends that the duration of a prohibition order under section 100(1) of the Criminal Code be extended to ten years in the case of a first conviction and for life in any other case. The Special Committee does not oppose the addition of an element of discretion in section 100(1) and (7) of the Code as proposed in Bill C-80.

4. IMPORTATION

The enactment of more effective firearms laws in Canada will be of limited value if border controls are not sufficient to keep illegal firearms out of the country. The Special Committee heard disturbing testimony that present resources and controls do not allow for effective screening of firearms legally imported into Canada, much less provide for any effective deterrent or control that would limit the smuggling of firearms through clandestine operations or even as part of commercial importations.

The President of the Customs Union stated that the Department of National Revenue, Customs & Excise, suffers from staff shortages and inadequate training of customs officers. He suggested that at least 1000 more customs officers were needed, and that all customs officers require more training in regard to Canada's firearms laws. Officials from the Department also appeared before the Special Committee. Although they did not directly agree with these assertions, or confirm the number suggested in regard to the shortage of staff, they did not seriously challenge the primary thrust of the evidence that the Department does not have enough resources to deal adequately with the challenge presently before it.

The Union President also expressed concern about the lack of any roving border patrol that could interdict smuggling between points of entry, and of the problem of unarmed customs officers challenging those they believe may be smuggling firearms or may be in possession of firearms that are not legal in Canada. He suggested that officers in such a position are at great personal risk and should be armed. Staff Inspector Crampton also suggested that officers on night duty or stationed at lonely border posts should be armed. The Special Committee is concerned about the risk to customs

officers, but we are also concerned that arming customs officers may not be appropriate. We would urge the federal government, however, to take a serious look at these issues, both from the point of view of protecting customs officers and in regard to ensuring effective controls on the smuggling of firearms into Canada.

The Special Committee believes that this is not an area in which we can afford to take risks. Therefore, controls on the illegal entry of firearms are essential to protect public safety, and sufficient resources must be provided to allow customs officials and officers to do the best job possible.

RECOMMENDATION 31

The Special Committee recommends that the federal government undertake a comprehensive review of all issues affecting the ability of the Department of National Revenue, Customs and Excise, to provide effective protection against the illegal entry of firearms into Canada. Such a review should include, as a minimum, a consideration of the issues of sufficient staff levels and of the training of customs officers in regard to firearms laws. It is the government's responsibility to ensure that there are sufficient numbers of adequately trained and equipped customs officers to provide effective border controls on firearms.

CHAPTER 6

CONCLUSION

In the time available to it, the Special Committee has examined a wide range of issues involving Canada's firearms laws, and has recommended a broad package of measures to improve them. Many questions remain to be further investigated by the Canadian Advisory Council on Firearms, but the Committee's recommendations would, we strongly believe, provide for a much more effective system than now exists, or that would exist if the government's package of measures was implemented as proposed. Such an improved system is necessary in the interests of public safety.

In many ways, the Special Committee has gone beyond what is proposed in Bill C-80 and the accompanying regulatory proposals. For example, our recommendations would provide for a significantly strengthened FAC screening process for first-time applicants, including parental consent for applicants between 16 and 18 years of age, and an emphasis on the national implementation of mandatory competency and safety training courses as soon as possible. We have also proposed a renewal procedure to make the system more rational and less onerous on firearms owners, as well as transitional provisions to protect the interests of those who have been using firearms responsibly for years.

Our proposals would also ensure that all military and para-military firearms remaining in the country, after further imports and sales were stopped, would ultimately end up in the hands of genuine gun collectors, rather than simply becoming restricted weapons. To ensure that the designation of gun collector has genuine meaning and consequences, our proposals would ensure that this key category, present in the Criminal Code but completely undefined for so many years, would be both properly defined and regulated. We also recommend that safe storage requirements be applied to all firearms owners. We would also expand the role of the Canadian Advisory Council on Firearms, and provide for the parliamentary scrutiny of any regulatory action.

Finally, our recommendations for tougher minimum penalties and stricter enforcement of these penalties for the use of a firearm in the commission of a crime, would directly address the area of greatest concern — the criminal use of firearms. We would also urge the federal government to take whatever measures are necessary to ensure that appropriate border controls are in place to prevent firearms smuggling.

We thus believe that our recommendations would protect public safety better than those proposals presently before Parliament. We believe that our proposals would also protect the legitimate interests of law-abiding firearms owners and users. We thus urge the federal government to implement our recommendations as soon as possible. If the present session of Parliament does not end before action can be taken, Bill C-80 should be amended and enacted in accordance with our recommendations, and additional legislation as required tabled without delay. If, however as we expect, Parliament is soon to be prorogued, we call upon the government to table as early as possible in the next session an improved bill which reflects our recommendations.

RECOMMENDATION 32

The Special Committee recommends that the federal government table, and Parliament enact, the legislation necessary to implement the recommendations made in this report as soon as possible.

APPENDIX A

WITNESSES AT PUBLIC HEARINGS

Name	Date	Issue No. *
Airdrie Revolver and Pistol Club Andrew John Krut, Secretary	December 18, 1990	6
Alberta Department of Forestry, Land and Wildlife Tom Bateman, Conservation Education Officer	January 15, 1991	9
Alberta Federation of Shooting Sports John Vaughan, Chairman, Legislative Committee	January 15, 1991	10
British Columbia Wildlife Federation Donna Lea Hawley, Coordinator, Firearms Legislation Committee; Robert W. Tarling, Member, Firearms Legislation Committee	December 13, 1990	3
Canadian Association of Chiefs of Police Chief Thomas E. Flanagan, Ottawa Police Force, Chairman, Law Amendments Committee; N.G. Beauchesne, Police Legal Adviser, Metropolitan Toronto Police Force; N. Earl Soley, Firearms Identification Examination Officer, Office of Chief Provincial Firearms Officer of Ontario	December 19, 1990	7
Canadian Bar Association Wayne Chapman, President; Terrence A. Wade, Senior Director, Legal and Governmental Affairs	January 15, 1991	9
Canadian National Shooting Team Robert Kierstead, Head Coach	December 18, 1990	6
Canadian Police Association James M. Kingston, Chief Executive Officer	December 18, 1990	5
Canadians for a Safer Canada Iain Main, National Coordinator	January 14, 1991	8

* Refers to the Issues of the *Minutes of Proceedings and Evidence* of the Committee

Name	Date	Issue No. *
Canadians for Gun Control Wendy Cukier, National Coordinator	December 17, 1990	4
Canadian Wildlife Federation James T. Hook, Q.C., Chairman, Firearms Legislation Committee	December 13, 1990	3
Chief Provincial Firearms Officers Lorne M. Newson, Director, Security Programs Division, British Columbia; George E. A. Reid, Chief Provincial Firearms Officer, Alberta; Henry T. Vanwyk, Chief Provincial Firearms Officer, Ontario	December 17, 1990	4
Staff Inspector W.R. Crampton Metropolitan Toronto Police Force	December 18, 1990	5
Customs Excise Union – Public Service Alliance of Canada Mansel Legacy, National President	January 15, 1991	10
Darryl Davies, Criminologist	December 12, 1990	2
Department of Justice The Honourable Kim Campbell, Minister of Justice and Attorney General of Canada	December 13, 1990	3
Richard G. Mosley, Senior General Counsel, Criminal and Family Law Policy Directorate; Michael E. Zigayer, Counsel, Criminal Law Policy Section; Christopher D. Ram, Counsel, Criminal Law Policy Section	December 5, 1990	1
Dominion of Canada Rifle Association Dr. J.D. Salloum, Executive Director; Colonel J.C. Brick, Life Governor	December 13, 1990	3
Employees of *l'École Polytechnique de Montréal* Michel Rigaud, Department of Metallurgy; Daniel Leblanc, Professor of Industrial Engineering; André Desilets, Technician, Department of Metallurgy	December 18, 1990	5

Name	Date	Issue No. *
Guide–Outfitters Association of British Columbia Don Caldwell, Executive Director	January 15, 1991	10
Hôpital de l'Enfant–Jésus de Québec Dr. Antoine Chapdelaine, Medical Consultant, Department of Community Health	January 14, 1991	8
International Practical Shooting Confederation Canada Calvin Martin, Member; Judith Ross, Member	December 13, 1990	3
Montreal Assault Prevention Centre Leona Heillig, Co–Coordinator; David Singleton, Co–Coordinator; Patricia Bossy, Liaison Officer	January 15, 1991	9
National Association of Women and the Law Nicole Tellier, Chairperson, Working Group on Criminal Justice; Carol–Lynn Saad, Vice–Chairperson, Working Group on Criminal Justice	December 17, 1990	4
National Firearms Association David A. Tomlinson, National President; Michael Martinoff, Member	December 13, 1990	3
Okotoks Rifle and Pistol Club, Alberta Bruno G. Sperling, President	January 14, 1991	8
Ontario Arms Collectors Association William Bateman, Member, Board of Directors; Allan John Hobbs, Member, Gun Committee	December 18, 1990	6
Ontario Federation of Anglers and Hunters Rick Morgan, Executive Vice–President; Norm Gardner	January 14, 1991	8
Ontario Ministry of Natural Resources William McKittrick, Hunter Education Coordinator	January 15, 1991	9
Quebec Hospitals Association Dr. Robert Maguire, Chairman, Trauma Committee	January 14, 1991	8

Name	Date	Issue No. *
Quebec Public Health Association Jean-Pierre Bélanger, President	January 14, 1991	8
Representatives of the Victims of *l'École Polytechnique de Montréal* Suzanne Edward; Jimmy Edward; Michelle Anderson; Serges Gagnon	January 16, 1991	11
Revenue Canada, Customs and Excise James Day, Director, Cargo and Release; M. Joly, Chief, General Enforcement; G. Rochon, Director, Port Administration Division	January 15, 1991	10
Royal Canadian Mounted Police Staff Sergeant Ron C. Knowles, Firearms Registration and Administration Section	December 17, 1990	4
Gerry Ruygrok, Ottawa, Ontario	January 16, 1991	11
Shooting Federation of Canada Don Hinchley, President	December 18, 1990	6
Murray Smith Chief Scientist - Firearms, RCMP Central Forensic Laboratory	December 5, 1990 January 15, 1991	1 10
Students of *l'École Polytechnique de Montréal* François Legendre, President, Students Association; Heidi Rathjen, Campaign Coordinator for Arms Control; Dawn Wiseman, Concordia Engineering, Head of Campaign for Gun Control, Canadian Congress of Engineering Students	December 18, 1990	5

APPENDIX B

WRITTEN SUBMISSIONS RECEIVED

Jay D. Abell, Herbert, Saskatchewan
Shaun Ager, Comox, B.C.
Anne A. Alarie, Penticton, B.C.
Heather Alarie, Vancouver, B.C.
Wilf. G. Alarie, Penticton, B.C.
Alberta Cattle Commission, Calgary, Alberta
Allround Machine Products Limited, Mississauga, Ontario
Margaret J. Anderson, Forrest Station, Manitoba
Tom Anderson, Whitby, Ontario
Vedna Anderson, Whitby, Ontario
Randolph P. Angle, Edmonton, Alberta
Bob Annand, Mossbank, Saskatchewan
R. Cameron Anspach, Beeton, Ontario
The Army Cadet League of Canada, Ottawa, Ontario
Assembly of First Nations, Ottawa, Ontario
Philippe Aubé, Montreal, Quebec
Caroline Aubert, Princeville, Quebec
Aurora Gun Club, Toronto, Ontario
Axelson Holdings Limited, Willowdale, Ontario

Glen H. Bailey, Woodstock, Ontario
Alf Baldwin, Medicine Hat, Alberta
John P. Ball, Aylmer, Ontario
Chris Ballarin, Vancouver, B.C.
W. A. Banks, Port Coquitlam, B.C.
Rene Barone, Penticton, B.C.
Serge Barré, Beauport, Quebec
David Bartlett (Carleton University), Ottawa, Ontario
Andrew Bateman, Guelph, Ontario
R. W. Bates, Willowdale, Ontario
Claude Beaupré, Lac Beauport, Quebec
Alfred H. Beck, Pembroke, Ontario
Alain Bédard, Beauport, Quebec
Lawrence Beckett, Kitchener, Ontario
Paul T. Begley, Hillsdale, Ontario
Mr. & Mrs. Bergeron, Ville Ste-Marie, Quebec
Jean-Paul Bernard, Lévis, Quebec
Ruth I. Best, Cambridge, Nova Scotia
Stephen R. Best, Cambridge, Nova Scotia
M. Beztilny, Yellowknife, NWT
Michael G. Bird, Scarborough, Ontario

P. Bird
Dr. Robert H. Blackburn, Waterloo, Ontario
Barrie Bochoff, Dartmouth, Nova Scotia
Peter Bolton, Port Alberni, B.C.
Marcel Bouchard, Beauport, Quebec
Romuald Boucher, Ste-Anne-de-Beaupré, Quebec
Brian Bowes, Fort Frances, Ontario
Glen Bowley, Komoka, Ontario
W. H. Branston, Mount Forest, Ontario
B.C. Federation of Shooting Sports, Vancouver, B.C.
Maurice Brisson, Sacré-Coeur, Co. Saguenay, Quebec
David Brough, Hillsburgh, Ontario
Douglas Brousseau, Guelph, Ontario
George Brown, Toronto, Ontario
James J.T. Brown, Scarborough, Ontario
J. & M. Buckner, Ear Falls, Ontario
Robert Burgess, Medicine Hat, Alberta

Caina Company (Canada), Ottawa, Ontario
G. D. Gerry Calhoun, Moncton, N.B.
Canadian Cattlemen's Association, Calgary, Alberta
Canadian Criminal Justice Association, Ottawa, Ontario
Canadian Federation of University Women (Ontario Council), Guelph, Ontario
Canadian Medical Association, Ottawa, Ontario
Canadian Public Health Association, Ottawa, Ontario
Canaviax Products, Willowdale, Ontario
Denis Canet, Beauport, Quebec
Robert Carlson, Fort MacMurray, Alberta
Ken Carpenter, Toronto, Ontario
Castlegar Pistol Club, Castlegar, B.C.
Armando Castro, Oakville, Ontario
Gerald Catt, Vanessa, Ontario
Century International Arms Limited, Montreal, Quebec
Simon Chamberland, Quebec, Quebec
Stacey Cheswonak, Delta, B.C.
Mr. & Mrs. P. Chilibeck, Mississauga, Ontario
Chilliwack Fish & Game Protective Association, Chilliwack, B.C.
Richard S. Cogar, Gladstone, Manitoba
Cold Blue Rentals, Montreal, Quebec
Mark W. Coleman, Kitchener, Ontario
Carol Columbo, Sault Ste. Marie, Ontario
James Corbin, Castlegar, B.C.
Cornwall Handgun Club, Cornwall, Ontario
Josée Côté, Plessisville, Quebec
J. Cumberland, Naramata, B.C.
Jim Cunningham, Owen Sound, Ontario
Ghyslain Cyr, Beauport, Quebec

Stewart Dale, Coniston, Ontario
Alex Damiano, Toronto, Ontario
Buster Davy, Whitehorse, Yukon
Ronald J. Dawkins, Guelph, Ontario
Robert de Coster, Quebec, Quebec
Jacques Dechene, Beauport, Quebec
J. M. (Jim) Dejax, Cowley, Alberta
Robb Demill, Port Hope, Ontario
Department of Community Health of the Outaouais
Marcel Déry, Beauport, Quebec
Paul-Henri Déry, St-Raymond, Quebec
François Desautels, Princeville, Quebec
Ken Doan, Oxbow, Saskatchewan
Dryden Rifle and Pistol Club, Dryden, Ontario
L. R. Dufresne, Aylmer, Quebec
Bruce B. Dyball, Hillsburgh, Ontario

Raymond Eagle, West Vancouver, B.C.
Eastern Ontario Handgun Club, Ottawa, Ontario
Martin Eckervogt, Haines Junction, Yukon
John Edgar, Courtenay, B.C.
R. D. Edward, Kamloops, B.C.
Rocky Ehlers, Revelstoke, B.C.
Dr. David S. Elliott, Toronto, Ontario

Family Support Centre, Metropolitan Toronto Chapter
Fédération de la Famille (Richelieu-Yamaska), Saint-Hyacinthe, Quebec
Neil Findlay, Coquitlam, B.C.
James Finley, St. Catharines, Ontario
Richard Flamand, Beauport, Quebec
André Fleury, Ste-Foy, Quebec
Kim Flintoft, St. Thomas, Ontario
Rick Flisak, Guelph, Ontario
Fort Frances Sportsmen's Club, Fort Frances, Ontario
Liette Fortier, Ste-Brigitte de Laval, Quebec
Johanne Fortin, St-Augustin, Quebec
Fort Langley Freehunters, Pinantan Lake, B.C.
Matthew J. Fox, Toronto, Ontario
Jim Foy, Islington, Ontario
Kevin Fraser, Kenora, Ontario
C.F. French, Pierrefonds, Quebec
Martin L. Fruchtman, Toronto, Ontario

Gabriola Rod Gun and Conservation Club, Gabriola Island, B.C.
Stephen Gallinger, Cornwall, Ontario
Cathy Garbo, Revelstoke, B.C.
J. B. Garton, Jasper, Ontario
Marc F. Gauthier, Beauport, Quebec

Don Gaynor, Calgary, Alberta
B. Gomassen, Ste-Brigitte-de-Laval, Quebec
Barney Gotuaco, Newmarket, Ontario
Grand-Portage Hospital Centre, Rivière-du-Loup, Quebec
Gravenhurst Rifle and Revolver Club Inc., Gravenhurst, Ontario
Clifford Gray, Woodbridge, Ontario
Phillip D. Gray, Aurora, Ontario
Gérard Grégoire
J. Paul Greely, Sault Ste. Marie, Ontario
Morton Greenglass, Toronto, Ontario
Michael Grinnell, Stouffville, Ontario
Albert Groleau, Charny, Quebec

Diane Hamel, St-Louis de Blandford, Quebec
C.S. Hallett, Country Harbour, Guys. County, N.S.
A. Hanson, Maple Ridge, B.C.
David Hartin, Gondola Point, N.B.
Frank Hayes
Peter Hayes, Ottawa, Ontario
Ken Heatley, Guelph, Ontario
Glen Henschke, Courtenay, B.C.
J. Kent Hill, Queensville, Ontario
Barry Hinde, Watson Lake, Yukon
Donald C. Holmes, Ottawa, Ontario
Louis Houde, Trois-Rivières-Ouest, Quebec
Robert Hull, Kitchener, Ontario
Bernard Huot, Ste-Thérèse de Lisieux, Beauport, Quebec
Roger Huot, Ste-Thérèse de Lisieux, Beauport, Quebec

Anthony Jares, Etobicoke, Ontario
Alan Jaskolka, Thornhill, Ontario
Mike Jehnichen, North Vancouver, B.C.
Mr. & Mrs. Ken Johnson
Johnston Tractor Parts Ltd., Grenfell, Saskatchewan
Bryan Joncas, Ste-Thérèse de Lisieux, Beauport, Quebec
E. Joncas, Ste-Blandine, Quebec
Eddy Joncas, Ste-Thérèse de Lisieux, Beauport, Quebec
Roch Joncas, Quebec, Quebec

Kathryn Kane-Upton, Edmonton, Alberta
Jocelan Karley, Burnaby, B.C.
Dr. Sydney Katzman, Agincourt, Ontario
Albert Kehrli, Richmond Hill, Ontario
V. Keoshkenan, Willowdale, Ontario
Robert Kierstead, Rothesay, New Brunswick
R. C. Kirkby, Toronto, Ontario
Bruce Klaehn, Kitchener, Ontario
Robert J. Klassen, Williams Lake, B.C.

Klondike Arms and Antiques Limited, Edmonton, Alberta
Frank Koeksal, Calgary, Alberta
Andrew Kostiuk, Weston, Ontario
James Krahn, Winkler, Manitoba

Dave Lachance, St-Thuribe, Quebec
Marius Laverdière, Les Écureuils, Quebec
Tony Law, Hornby Island, B.C.
Harold Lebel, Victoriaville, Quebec
Serge Lebel
David LeBlanc, Matapédia, Quebec
Donald Lee, Fort Saskatchewan, Alberta
Michael Lee, Cornwall, Ontario
Ray J. Lee, Robson, B.C.
Pierre Lefebvre, Princeville, Arthabaska Co., Quebec
Claude LeFrançois, Beauport, Quebec
Karl Legaré, Princeville, Quebec
Gilles Legros, St-Jean-Chrysostome, Quebec
Marie-Josée Lemelin, Ville Vanier, Quebec
Serge Lemelin, Sr.
Louisette Lévesque, Charlesbourg, Quebec
Lillooet and District Rod and Gun Club, Lillooet, B.C.
Terry Lindsay, Peterborough, Ontario
The Links Road Animal and Bird Clinic, Willowdale, Ontario
The Lorne Scots Military Rifle Association, Brampton, Ontario
Dr. Robert A. Love, Victoria, B.C.
Randy Lowe, Sparwood, B.C.
Stan Lugowski, Don Mills, Ontario

Chris MacDonald, Williams Lake, B.C.
Iain D. L. MacDonald, Dunrobin, Ontario
Malcolm J. MacKenzie, Middleton, Nova Scotia
Kevin Mallen, Mississauga, Ontario
Ron W. March, Revelstoke, B.C.
Ken Marriott, Guelph, Ontario
Dr. Lawrence Martin, Toronto, Ontario
Marysville Rifle and Pistol Club, Fredericton, New Brunswick
Huguette Masson, Ste-Thérèse de Lisieux, Beauport, Quebec
R. G. Matacheskie, Belleville, Ontario
Benoît Mathieu, Beauport, Quebec
Jack Mayer, Riverview, New Brunswick
Siegfried A. Mehlitz, Sr., Fredericton, N.B.
Jim Meyers, Ajax, Ontario
A.J. Mills, Casselman, Ontario
Jim Milson, Woodstock, Ontario
J. Monette, Beauport, Quebec
Chuck Morin, Castlegar, B.C.
Lee G. Morrison, Robsart, Saskatchewan

Greg Mowatt, Coquitlam, B.C.
Leo Muhitch, Toronto, Ontario
Keith Murchison, Nepean, Ontario
L. D. Murray, Marysville, B.C.
Walter C. Murray, Ingersoll, Ontario
Helen McCullough, Winnipeg, Manitoba
Terry McKinnon, Wanless, Manitoba

Jimmy Nadeau
Normand Nadeau, Princeville, Quebec
National Action Committee on the Status of Women, Calgary, Alberta
National Action Committee on the Status of Women, Toronto, Ontario
National Arms Collectors' Association, Don Mills, Ontario
Dr. Peter M. Neilson, Amherstburg, Ontario
Normand Nolin, Plessisville, Quebec
D. J. Norris, Nelson, B.C.
(New) Northwestern Ontario Rifle Association, Thunder Bay, Ontario
Nova Scotia Rifle Association, Dartmouth, N.S.

Terry Oblinski, Perth, Ontario
Ontario Friends of Schizophrenics, Metro Toronto Chapter
Ontario Handgun Association, Mississauga, Ontario
Gary J. Oswald, Gloucester, Ontario
Oxford Fish & Game Protection Association, Woodstock, Ontario

Robert W. Page, Elm Creek, Manitoba
Jean Paradis, Beauport, Quebec
Pierre Paradis, Beauport, Quebec
Para-Ordnance Mfg. Inc., Scarborough, Ontario
Mary Parsons, Dover, Newfoundland
Cameron G. Paton, London, Ontario
John A. Paton, Toronto, Ontario
Walter R. Peigl, Abbotsford, B.C.
Richard W. Pennington, Victoria, B.C.
David J. Percy, Newmarket, Ontario
Ralph Perry, Brantford, Ontario
Peterborough Fish and Game Association, Peterborough, Ontario
Lis Petersen, Newmarket, Ontario
Niels Petersen, Newmarket, Ontario
G.W. Peterson, Love, Saskatchewan
Brian Pettipas, Moncton, New Brunswick
Mark and Linda Petty, Cherrywood, Ontario
André Picard, Leclercville, Quebec
Pickering Rod and Gun Club, Ajax, Ontario
Robin Plewes, Carp, Ontario
Port Perry Rod & Gun Inc., Port Perry, Ontario
G.F. Preston Sales and Service Ltd., Sundridge, Ontario

Douglas A. Price, New Liskeard, Ontario
James W. Prier, Vancouver, B.C.
Larry D. Prokopetz, White Fox, Saskatchewan

James P. Rea, Calgary, Alberta
Allan Redford, Toronto, Ontario
Claude Renaud, St-Joachim, Quebec
William C. Reuber, Mildmay, Ontario
Stephen Rose, Mississauga, Ontario
Hon. Ken Rostad, Attorney General and Minister Responsible for Native Affairs, Alberta
John W. Rowe, Ottawa, Ontario
François Roy, Sainte-Marguerite de Dorchester, Quebec
Martine Roy, Beauport, Quebec
Ray Ruelling, Fort McMurray, Alberta
Stella Ruelling, Fort McMurray, Alberta
Michael J. Ryan, Newmarket, Ontario
Bob Rydberg, Sioux Narrows, Ontario

Safeguard National Association, Canadians for Responsible Gun Laws, Toronto, Ontario
Saskatoon Wildlife Federation, Saskatoon, Saskatchewan
William R. Schleihauf, Pierrefonds, Quebec
Larry D. Schmidt, Bowen Island, B.C.
D. Schutte, Revelstoke, B.C.
Donald R. Sellers, Ajax, Ontario
Service Rifle Shooting Association, Shelburne, Ontario
Service Rifle Shooting Association, Sunderland, Ontario
Yves Sévigny, Victoriaville, Quebec
Sharon Gun Club, Sharon, Ontario
M.C. Shaw, Kitchener, Ontario
James L. Shepherd, Kingston, Ontario
David R. Silver, Halifax, N.S.
Gloria Smelsky, Welland, Ontario
D. K. Smith, Grimsby, Ontario
Allan Smithies, Mississauga, Ontario
Claude St-Laurent, Black Lake, Quebec
G. J. Stanton, Southbank, B.C.
Reverend Michael J. Stark, Coquitlam, B.C.
Randall Stebner, Regina, Saskatchewan
Mike Stolsky, Coniston, Ontario
Stone Mountain Safaris Ltd., Toad River, B.C.
R. Storvold, Montrose, B.C.
Floyd Stromstedt, Berwyn, Alberta
Lawson G. Sugden, Okanagan Falls, B.C.
Leonard J. Surovy, Saskatoon, Saskatchewan
Tom Sydness, Edmonton, Alberta

Lee Taylor, Revelstoke, B.C.
Peter W. H. Terry, Cannington, Ontario
Louis Tessier, St-Thuribe, Quebec
Marc Tessier, St-Thuribe, Quebec
Pierre-Paul Tessier, St-Thuribe, Quebec
Eric Thibeault, St-Thuribe, Quebec
Richard Thody, Grenfell, Saskatchewan
Tom Bongalis Ltd., North Vancouver, B.C.
W. Derrik Toovey, Saskatoon, Saskatchewan
Toronto City Hall, Legal Department, Toronto, Ontario
David M. Trask, Fergus, Ontario
Normand Travercy, St-Jean-Chrysostome, Quebec
Martin Tremblay, St-Joachim, Quebec
Robert Trumble, Sarnia, Ontario
Murray D. Tuck, Grande Pointe, Ontario
John Turecek, Brampton, Ontario
Richard Turner
Twin City Rifle Club, Waterloo, Ontario

Terry Ursacki (University of Calgary), Calgary, Alberta
David Usherwood, Scarborough, Ontario

Benoit Vachon, St-Odilon, Co. Beauce Nord, Quebec
Michel Venet, Beauport, Quebec
Paul Verge, Quebec, Quebec
Roger Verrault, Sillery, Quebec
William Villhauer, Guelph, Ontario
V. R. Vincent, Wells, B.C.

Paul Warbick, Dunnville, Ontario
Robert L. Warwick, Sambra, Ontario
Jennifer Watkins, Vancouver, B.C.
Bert Weisz, Windsor, Ontario
J. Wejtko, Toronto, Ontario
Dave Welch, Beauport, Quebec
Stanley Welch, Ste-Pétronille, Quebec
Steve Welch, Beauport, Quebec
Brian Welton, Thompson, Manitoba
W.A. Wheatfield, Sudbury, Ontario
Glen V. White, Nelson, B.C.
Robert A. Wild, Saanichton, B.C.
Sophie Williamson, Charlesbourg, Quebec
Willock Electric Ltd., Estevan, Saskatchewan
Wilmot Twp. Rod & Gun Club, Baden, Ontario
William A. Windrum, Vancouver, B.C.

David Young, Dollard des Ormeaux, Quebec

Kenneth M. Zakaib, St. Leonard, Quebec

CONSTITUENCY OFFICE
81 Duke Street
Dryden, Ontario
P8N 1G2
Tel: (807) 223-5505
Fax: (807) 223-5541
Toll-free:
1-800-465-7226

HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Robert Nault, M.P.
Kenora - Rainy River

PARLIAMENTARY OFFICE
Room 478
Confederation Building
House of Commons
Ottawa
K1A 0A6
Tel: (613) 996-1161
Fax: (613) 996-1759

APPENDIX C

DISSENTING OPINION

ON CERTAIN ELEMENTS OF THE

SPECIAL COMMITTEE'S REPORT

ON THE SUBJECT MATTER OF C-80 (FIREARMS)

Submitted by: Robert D. Nault, MP
Kenora-Rainy River

February, 1991

Introduction

The majority of the Special Committee's Report on the Subject Matter of C-80 (Firearms) is acceptable in terms of its recommendations regarding a national, mandatory training program for firearms users, the new requirements for a Firearms Acquisition Certificate for first-time applicants, the FAC renewal process, the FAC requirements for a photograph and references, the fee structure for the FAC process, amnesties, an expanded role for the Canadian Advisory Council on Firearms and the increased penalties for the criminal misuse of firearms These recommendations are good ones which I support wholeheartedly.

The difficulties I have in supporting certain recommendations made by the Special Committee, lie with the mandatory waiting period, the types of firearms proposed to be prohibited and/or restricted, magazine capacity and the use of the definition "device" in the Criminal Code.

I do not believe these areas recommended by the Committee are workable both at the administrative level and at the judicial level and they will put severe restrictions on the legitimate users of these firearms. Furthermore, I believe that should all of the recommendations of the Special Committee be adopted by the federal government, new legislation drafted based on these recommendations will lead to the exact same situation we experienced with C-80.

Bill C-80, "An Act to amend the Criminal Code and the Customs Tariff in consequence thereof"

During the many hours of testimony from witnesses on both sides of the issues, the Special Committee heard that Bill C-80, introduced in June, 1990, was unacceptable.

Based on the recommendations of the Special Committee, my own recommendations and the evidence heard by the many witnesses, the government cannot possibly proceed with Bill C-80 in its present form. I therefore put forward the following recommendation:

Recommendation 1

It is recommended that the Minister of Justice move immediately to withdraw Bill C-80 from the Order Paper and instruct her officials to begin a new process for a new piece of legislation which would include an extensive consultation process.

Mandatory Waiting Period (1st-time Applicants)

The Special Committee has recommended, in addition to the mandatory training program, a 28-day mandatory waiting period before anyone could receive a Firearms Acquisition Certificate.

The purpose of the mandatory training program is to provide an extensive course, based on national standards, on the safe use and storage of firearms. Such courses cannot be completed quickly if one is to be provided with an extensive training program Therefore, the so-called "cooling-off period" is automatically built-in to the training program. Furthermore, the requirement to provide the names of two references will allow authorities to conduct a proper investigation which will be enough to ascertain whether the applicant should be given a Firearms Acquisition Certificate.

In the more rural areas of the country, where training programs will be scarcer than in the urban areas, this will mean an individual could wait months before he or she can purchase an FAC. The mandatory waiting period as proposed by the Special Committee will go well beyond 28 days. I therefore recommend the following:

Recommendation 2

It is recommended that the legislation provide that an FAC be issued after a 28-day waiting period or after the successful completion of the implemented mandatory training course, whichever comes first.

Chapter 3 - Types of Firearms

I agree with the Special Committee recommendations which would prohibit all firearms manufactured as fully-automatics but have been converted to fire in the semi-automatic mode.

It is the recommendations respecting military and para-military firearms which I cannot support. During its hearings, the Special Committee heard from many collectors and from many international and national shooting organizations who would be affected by the recommendations of the Special Committee. It is generally accepted that certain restrictions must apply, but to prohibit them entirely would put an end to Canada's participation in international shooting competitions and it would put an end to collectors in the longer term.

Furthermore, most para-military firearms are military look-alikes and are nothing more than a dressed-up semi-automatic firearm. While there are some firearms which are probably not deemed fit for Canadian society, I do not believe that all firearms should be prohibited based on simple appearances. Careful consideration must be given.

Recommendation 3

It is recommended that all military-designed firearms be placed in the restricted category and that those firearms designated by the Canadian Advisory Council on Firearms and Parliament to be unsuitable, be placed, on a firearm by firearm basis, in the prohibited weapons category.

Recommendation 4

It is recommended that all para-military firearms designated by the Canadian Advisory Council on Firearms and Parliament to be unsuitable for hunting or competitive shooting, be placed, on a firearm by firearm basis, in the restricted category.

Chapter 3 - Magazine Capacity and Devices

A) Magazine Capacity

There was much debate over whether or not the magazine capacity should be restricted. Under C-80, the Minister announced her intention by way of regulation, to restrict the magazine capacity on firearms to 5 rounds for rifles and to 10 rounds for handguns. This is one of the most contentious issues in Bill C-80 and if accepted, these restrictions would have directly affected the legitimate use of firearms by hunters and competition shooters.

The Special Committee heard testimony from the RCMP's firearms expert, Mr. Murray Smith and many others, that magazines are unmarked and therefore untraceable. It was also acknowledged that this would make enforcement difficult as distinctions could not be made on the basis of different types of magazines being registered as restricted. Furthermore, the problems of interchangeability and untraceability, as well as the several millions of magazine already in existence in Canada, would make any limits on magazine capacity impossible to administer and enforce.

Recommendation 5

In view of the testimony provided by the RCMP's firearms expert and others, it is recommended that no restrictions be placed on magazine capacity.

B) Devices

Under Bill C-80, order-in-council powers would have been amended to extend those powers to "devices", a term which has been very loosely defined as not being complete weapons. The difficulties with the provision lie with the lack of a definition and it is therefore feared that the extended powers would be used to prohibit any firearm not deemed to be appropriate by the Minister of Justice.

By placing firearms which have been designed in the automatic mode and converted to fire in the semi-automatic mode in the prohibited category, and military firearms in the restricted category and by giving the Canadian Advisory Council on Firearms the mandate to recommend restriction or prohibition of those firearms deemed inappropriate to the overall well-being of Canadians, the extension of the order-in-council powers to include "devices" in the prohibited weapons definition in the Criminal Code becomes unnecessary.

Recommendation 6

It is recommended that the Minister of Justice abandon her intentions to include the term "devices" in the definition of "prohibited weapon" in section 84(1) of the Criminal Code.

Conclusion

I firmly believe that these 6 (six) recommendations, coupled with the recommendations I support contained in the Special Committee's report will form the basis for legislation aimed at protecting the safety of Canadians while not restricting the legitimate use of firearms. A new piece of legislation encompassing these recommendations will give all Canadians effective and manageable firearms laws.

Robert D. Nault, MP
Kenora-Rainy River

APPENDIX D

DISSENTING OPINION - IAN WADDELL M.P.

Unlike the American, the Canadian frontier was not opened with a gun. In the Canadian West and in our North, you checked your guns with the R.C.M.P. and even the police were under orders not to draw their weapons unless absolutely necessary.

Canadians don't believe the gun solves all problems. Our people want stricter and more effective control of firearms. On most of the major issues, this committee report lets them down and guts the essence of Bill C-80 and the government's other proposals.

In the report, the regulations limiting magazine sizes are gutted. A 900,000 person loophole through the references and competency provisions of the FAC process is allowed. The prohibitions on converted automatics, military and para-military weapons are diluted. In short, if the Committee's recommendations are implemented, Bill C-80 will not be recognizable.

I oppose the Special Committee's recommendation that Bill C-80 be withdrawn. Such an action would derail the move to strengthen Canada's gun control laws. The amendments I support could easily be introduced at the Legislative Committee stage.

Converted Automatics

Converted automatic weapons are remodelled to get around our present law prohibiting automatic weapons. There is no place for these weapons in Canada. They should be prohibited and an amnesty offered for a limited time period. If the government chooses to grandfather these weapons, the provision should be as limited as possible. In contrast, the Special Committee recommends a much wider grandfathering provision than is found in Bill C-80.

I would prefer no grandfathering. As Mr. Lorne Newson, Chief Provincial Firearms Officer for B.C. said in a brief to the Committee: "In the first place, these people were very much aware they were skirting the law by buying superficially modified machine guns. They are deserving of no sympathy." Converted automatics are treated as illegal weapons for the most part today. The Committee proposes to overturn the case law, make these machine guns legal and further suggests that an owner who chooses to give them up be reimbursed by the government. I oppose the Committee's recommendation.

Military and Para-Military Assault Weapons

The Special Committee supported the Minister's proposal to prohibit military and para-military semi-automatics. The grandfathering procedures proposed by the Committee are wider still than those proposed for converted automatics. Present

owners of these assault weapons could register to keep them without meeting any of the safety criteria of "genuine gun collectors."

As these guns have been obtained legally, I recommend that they be grandfathered to present owners as was the case with automatic weapons under the 1978 law. This would limit the number of weapons and the number of owners. In addition, owners must meet the criteria established for "genuine gun collectors".

Semi-Automatic Weapons and a National Registry

The report deals only with those semi-automatics converted from automatic and those of military or para-military design. This leaves the regulation of most semi-automatic rifles untouched by the Special Committee. Some witnesses advocated a prohibition or restriction on all semi-automatic weapons. Studies have shown that they have a greater potential for multi-victim killings.

As restriction of semi-automatic weapons under the present law would effectively prohibit hunting activities, I recommend that all unrestricted semi-automatic weapons be registered as a separate class of weapons. (At present, only restricted weapons such as handguns are registered.) This would permit a better overall control over the use of firearms and would provide an information base for a more effective firearms control system. Gun owners would also benefit as their valuable firearms would be better protected against theft.

Numerous witnesses before the Special Committee recommended a full, national registry system for every firearm in Canada. The Special Committee fails to address these proposals in its report. The report does not even recommend a partial registry system for all firearms acquired after the new legislation is put into force.

I support the following proposal suggested by some members of the committee and the witnesses. All semi-automatics would be registered as above. All future firearms obtained using the FAC would also be registered at the time of purchase. Finally, every applicant for a FAC would be required to list all their firearms on the application. This would not place any additional bureaucratic burdens on firearms owners with non-semi automatic rifles who do not need a FAC at present. This would move us toward a long term goal of a full National Registry System.

Magazine Sizes

The government's gun control package included a ban on all handgun magazines that can hold more than 10 cartridges and all magazines for semi-automatic centrefire rifles that hold more than 5 centrefire cartridges. This was considered by all the witnesses to be one of the most important elements of the proposal. The Minister said before the Committee that her

proposal was a "reasonable alternative" to a ban on all semi-automatic firearms proposed by many after the massacre at the Ecole Polytechnique. She added: "This effectively restricts firepower without denying Canadians access to semi-automatics..."

The Committee's recommendation guts the Minister's proposal. Instead of the "5 and 10" suggestion, limits are increased to 10 for centre-fire semi-automatic cartridges and 20 for competition shooters. There would be no limits at all for "genuine gun collectors."

I oppose this recommendation. The Committee argued that the limit of 5 on semi-automatic rifles would affect rifles with built-in magazines of a capacity over 5. It was argued that these guns could not be altered and would become effectively prohibited.

Evidence presented to the Committee however, suggested that in 1991 of approximately 2600 different makes and models of weapons only 28 would be affected. 26 of these guns are in the para-military class and would be prohibited or restricted by the law in any event. Thus, of 2600 guns, only two - versions of the Marlin Camp Carbine - are affected. For this, the Committee guts a crucial element of the Minister's gun control package?

The 847,000 Person Loophole

The Special Committee's proposal for a new FAC system makes a strong distinction between first-time applicants and renewals. First-time applicants must provide two references, pay $50, fulfill a competency requirement, face vigourous screening provisions and are subject to a 28 day "cooling off period". None of these conditions apply to FAC renewals.

Under this proposed FAC system, individuals who have an FAC under the present system will be treated as renewals. The result is that all present FAC owners, some 847,000 people, will never be subject to the competency or references provisions. This is a loophole in the system of astonishing proportions.

All applicants for an FAC must meet the competency and reference requirements. Only after they have passed them the first time should things get easier upon renewal.

FAC Cost and Screening

The Special Committee recommends a fee of $50 for first-time applicants and $10 for renewals. The current firearms control system runs an annual deficit of 3 million dollars. I believe that the user-pay principle must be applied to the FAC process. Any fee structure should be adequate to cover the costs of the programme.

The Special Committee's recommendations do not address a number of potential FAC screening mechanisms. These include: interviews with the applicant's spouse, who is in all likelihood the closest potential victim of firearm misuse; neighbours; employers or, where an applicant is a member, gun clubs might be consulted. I believe through more careful screening the FAC process may prevent some misuse of guns and save lives.

Ammunition

The Special Committee rejected the suggestion made by a number of witnesses that a FAC be shown in order to buy ammunition. According to the Canadian Police Association such a proposal would make it much more difficult for criminals to obtain ammunition for stolen guns "and it might add 30 or 40 seconds to the time of the legitimate gun owner."

I understand the concern that this requirement would transform the FAC into a possession certificate as well as the difficulties of enforcing such a law. I still see the proposal as worthy of further consideration. I suggest that the Canadian Advisory Council on Firearms study the practicality of controls on ammunition and make the appropriate recommendation to the Minister and the House of Commons.

Criminal Misuse of Firearms

The Special Committee proposes much stiffer penalties for criminal misuse of firearms. For example, it is recommended that the minimum term for the use of a gun in the commission of a crime be tripled.

I agree with this recommendation. However, I believe the Special Committee mistakenly sees longer sentences as a trade-off for weakening the controls on firearms of Bill C-80. The focus on jail terms for criminals is an easy one for politicians. In some ways, it is an extension of the oft-heard phrase, "guns don't kill people, people kill people." We need strong controls on firearms and tough penalties for those who misuse them. People with guns kill people.

The Canadian Advisory Council on Firearms

The Canadian Advisory Council on Firearms has been assigned responsibility in 9 of the Committee's recommendations. While the Council can play a useful role in developing gun control policy, we must guard against two developments.

First, that this Council appointed by the Minister of Justice with no specific regulatory power should not become a dumping ground for gun control issues which require action.

Second, the Canadian Advisory Council need not be transformed into a C.R.T.C. of guns asked to pass judgement on every new gun that comes into Canada. We do not require a new firearms bureaucracy. Rather, what is required are clearly defined provisions of the Criminal Code dealing with firearms. Such provisions must be easy for gun owners to understand and firearms officers to enforce.

Women and Guns

Several witnesses before the Special Committee noted that women have a different attitude toward guns than do men. Women own only a small percentage of guns in Canada and commit only a tiny percentage of gun related crimes. While women commit less than 5% of firearms homicides, they are the victim in 30-40% of such cases.

The Ecole Polytechnique massacre focussed attention on the issue of firearms and violence against women. The issue is hardly a new one for Canadian women. Sixty per cent of all female homicide victims are killed within a family context. Shooting was the most common cause of death in these cases. Most often, rifles and shotguns were used.

No one suggests that firearms legislation alone is the answer to the problem of violence against women in our society. It is, however part of the solution. Women's voices must be heard in this debate.

Native Issues

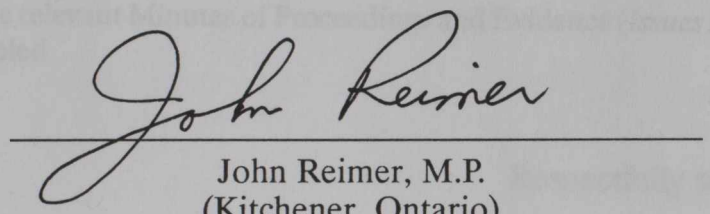
Many native people depend on wildlife harvesting for their livelihood and cultural expression. Existing case law (Sparrow vs. the Queen on fishing) recognizes their historical and treaty rights based on aboriginal title and occupancy. I believe the federal government is constitutionally bound to consult native people with respect to a gun control regime.

Conclusion

It is possible to enact more effective firearms control but it takes political will.

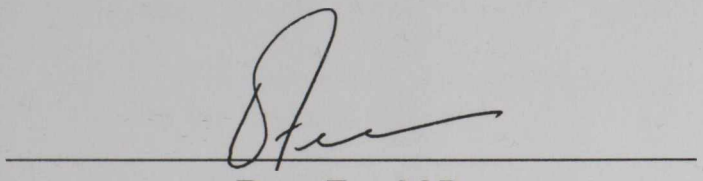
The Special Committee's report is good when it deals with such issues as safe storage, definition of genuine gun collector and safety courses. However, on the main issue of Bill C-80, it dilutes radically the legislation. It's a recipe for non-action.

The Members of the Special Committee

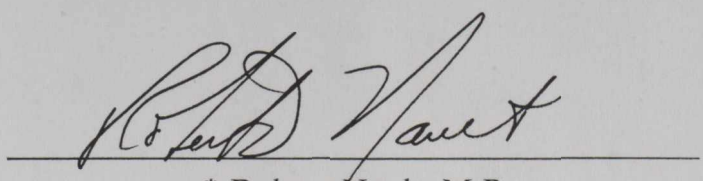


John Reimer, M.P.
(Kitchener, Ontario)
Chairman

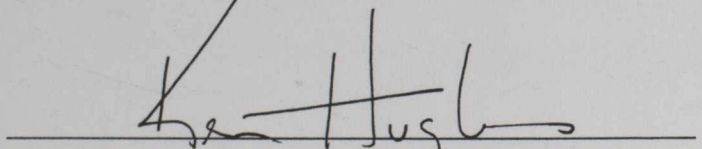
Pierrette Venne, M.P.
(Saint–Hubert, Québec)
Vice–Chairman



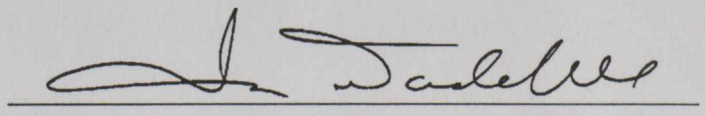
Doug Fee, M.P.
(Red Deer, Alberta)



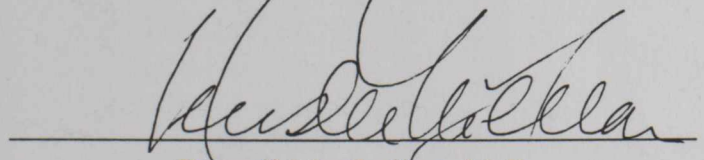
* Robert Nault, M.P.
(Kenora—Rainy River, Ontario)



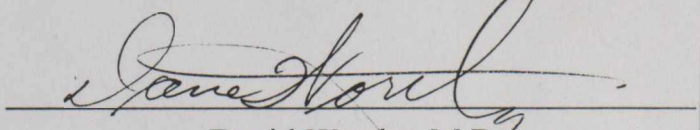
Ken Hughes, M.P.
(Macleod, Alberta)



* Ian Waddell, M.P.
(Port Moody—Coquitlam,
British Columbia)



Russell MacLellan, M.P.
(Cape Breton—The Sydneys,
Nova Scotia)



David Worthy, M.P.
(Cariboo—Chilcotin,
British Columbia)

* *Dissenting opinions appended to the Report*

REQUEST FOR GOVERNMENT RESPONSE

Your Committee recommends that the Government table a comprehensive response to this Report in accordance with the provisions of Standing Order 109.

A copy of the relevant Minutes of Proceedings and Evidence (*Issues Nos. 1 to 12, which includes this Report*) is tabled.

Respectfully submitted,

John H. Reimer,
Chairman

MINUTES OF PROCEEDINGS

THURSDAY, JANUARY 17, 1991
(18)

[*Text*]

The Special Committee on the subject matter of Bill C-80 (Firearms) met *in camera* at 12:20 o'clock p.m. this day, in Room 536, Wellington Building, the Chairman, John Reimer, presiding.

Members of the Committee present: Doug Fee, Ken Hughes, Russell MacLellan, Robert Nault, John Reimer, Pierrette Venne, Ian Waddell and Dave Worthy.

Other Member present: Benoît Tremblay.

In attendance: *From the Research Branch of the Library of Parliament*: William C. Bartlett, Nancy Holmes and Philip Rosen, Research Officers.

The Committee resumed consideration of its Order of Reference dated Friday, November 23, 1990, relating to the subject matter of Bill C-80, An Act to amend the Criminal Code and the Customs Tariff in consequence thereof. (*See Minutes of Proceedings, Wednesday, December 5, 1990, Issue No. 1*).

The Committee proceeded to the consideration of the Issues and Options document prepared by the Research Officers.

At 3:00 o'clock p.m., the sitting was suspended.

At 3:20 o'clock p.m., the sitting resumed.

The Committee resumed consideration of the Issues and Options document prepared by the Research Officers.

At 5:17 o'clock p.m., the Committee adjourned to the call of the Chair.

FRIDAY, JANUARY 18, 1991
(19)

The Special Committee on the subject matter of Bill C-80 (Firearms) met *in camera* at 9:20 o'clock a.m. this day, in Room 536, Wellington Building, the Chairman, John Reimer, presiding.

Members of the Committee present: Doug Fee, Ken Hughes, Russell MacLellan, Robert Nault, John Reimer, Pierrette Venne and Dave Worthy.

Other Member present: Benoît Tremblay.

In attendance: *From the Research Branch of the Library of Parliament*: William C. Bartlett, Nancy Holmes and Philip Rosen, Research Officers.

The Committee resumed consideration of its Order of Reference dated Friday, November 23, 1990, relating to the subject matter of Bill C-80, An Act to amend the Criminal Code and the Customs Tariff in consequence thereof. (*See Minutes of Proceedings, Wednesday, December 5, 1990, Issue No. 1*).

The Committee resumed consideration of the Issues and Options document prepared by the Research Officers.

At 10:45 o'clock a.m., the sitting was suspended.

At 12:24 o'clock p.m., the sitting resumed.

The Committee resumed consideration of the Issues and Options document prepared by the Research Officers.

It was agreed,—That the Committee meet on Tuesday, January 29, 1991, in the morning, afternoon and evening (if required) and on Wednesday, January 30, 1991 in the morning to consider the draft report to the House.

At 2:47 o'clock p.m., the Committee adjourned to the call of the Chair.

MONDAY, JANUARY 21, 1991
(20)

The Special Committee on the subject matter of Bill C-80 (Firearms) met *in camera* at 9:50 o'clock a.m. this day, in Room 536, Wellington Building, the Acting Chairman, Doug Fee, presiding.

Members of the Committee present: Doug Fee, Ken Hughes, Russell MacLellan, John Reimer, Ian Waddell and Dave Worthy.

In attendance: *From the Research Branch of the Library of Parliament*: William C. Bartlett, Nancy Holmes and Philip Rosen, Research Officers.

The Committee resumed consideration of its Order of Reference dated Friday, November 23, 1990, relating to the subject matter of Bill C-80, An Act to amend the Criminal Code and the Customs Tariff in consequence thereof. (*See Minutes of Proceedings, Wednesday, December 5, 1990, Issue No. 1*).

It was agreed,—That Doug Fee assume the Chair as Acting Chairman.

The Committee resumed consideration of the Issues and Options document prepared by the Research Officers.

The Chairman assumed the Chair.

At 10:50 o'clock a.m., the sitting was suspended.

At 12:40 o'clock p.m., the sitting resumed.

The Committee resumed consideration of the Issues and Options document prepared by the Research Officers.

At 2:00 o'clock p.m., the sitting was suspended.

At 3:40 o'clock p.m., the sitting resumed.

The Committee resumed consideration of the Issues and Options document prepared by the Research Officers.

At 5:20 o'clock p.m., the sitting was suspended.

At 6:36 o'clock p.m., the sitting resumed.

The Committee resumed consideration of the Issues and Options document prepared by the Research Officers.

It was agreed,—That the Committee meet to consider the Draft Report from 10:00 a.m. to 10:00 p.m. on Tuesday, January 29, 1991; 9:00 a.m. to 12:00 (noon) on Wednesday, January 30, 1991, if required; and on Wednesday, February 6, 1991.

At 9:44 o'clock p.m., the Committee adjourned to the call of the Chair.

TUESDAY, JANUARY 29, 1991
(21)

The Special Committee on the subject matter of Bill C-80 (Firearms) met *in camera* at 10:28 o'clock a.m. this day, in Room 536, Wellington Building, the Chairman, John Reimer, presiding.

Members of the Committee present: Doug Fee, Ken Hughes, Russell MacLellan, Robert Nault, John Reimer, Pierrette Venne, Ian Waddell and Dave Worthy.

Other Member present: Benoît Tremblay.

In attendance: *From the Research Branch of the Library of Parliament*: William C. Bartlett, Nancy Holmes and Philip Rosen, Research Officers.

The Committee resumed consideration of its Order of Reference dated Friday, November 23, 1990, relating to the subject matter of Bill C-80, An Act to amend the Criminal Code and the Customs Tariff in consequence thereof. (*See Minutes of Proceedings, Wednesday, December 5, 1990, Issue No. 1*).

The Committee proceeded to the consideration of a Draft Report.

It was agreed,—That the deadline for the receipt of submissions be Tuesday, January 29, 1991.

It was agreed,—That the list of witnesses who appeared before the Committee and the list of individuals and organizations who made submissions by Tuesday, January 29, 1991 be printed as appendices in the Report.

At 11:48 o'clock a.m., the sitting was suspended.

At 12:02 o'clock p.m., the sitting resumed.

The Committee resumed consideration of the Draft Report.

At 12:55 o'clock p.m., the sitting was suspended.

At 1:24 o'clock p.m., the sitting resumed.

The Committee resumed consideration of the Draft Report.

At 2:50 o'clock p.m., the sitting was suspended.

At 3:20 o'clock p.m., the sitting resumed.

The Committee resumed consideration of the Draft Report.

At 5:00 o'clock p.m., the sitting was suspended.

At 6:25 o'clock p.m., the sitting resumed.

The Committee resumed consideration of the Draft Report.

At 8:49 o'clock p.m., the Committee adjourned until tomorrow at 9:00 o'clock a.m.

WEDNESDAY, JANUARY 30, 1991
(22)

The Special Committee on the subject matter of Bill C-80 (Firearms) met *in camera* at 9:20 o'clock a.m. this day, in Room 536, Wellington Building, the Chairman, John Reimer, presiding.

Members of the Committee present: Ken Hughes, Russell MacLellan, Robert Nault, John Reimer, Scott Thorkelson, Pierrette Venne, Ian Waddell and Dave Worthy.

Other Member present: Benoît Tremblay.

In attendance: *From the Research Branch of the Library of Parliament*: William C. Bartlett, Nancy Holmes and Philip Rosen, Research Officers.

The Committee resumed consideration of its Order of Reference dated Friday, November 23, 1990, relating to the subject matter of Bill C-80, An Act to amend the Criminal Code and the Customs Tariff in consequence thereof. (*See Minutes of Proceedings, Wednesday, December 5, 1990, Issue No. 1*).

The Committee resumed consideration of its Draft Report.

At 10:49 o'clock a.m., the sitting was suspended.

At 11:18 o'clock a.m., the sitting resumed.

The Committee resumed consideration of its Draft Report.

It was agreed,—That the Committee request a comprehensive response from the government in accordance with Standing Order 109.

It was agreed,—That, in addition to the 550 copies printed by the House, the Committee print 10,000 copies of its Report in English and 5,000 copies of its Report in French.

It was ordered,—That the transcripts of all *in camera* meetings be destroyed by the Clerk of the Committee after the Committee's Report has been tabled or at the end of the present Parliament, whichever occurs first.

It was agreed,—That the Press Conference on its Report be held in the morning of Friday, February 15, 1991.

It was agreed,—That Robert Nault and Ian Waddell have until 3:00 o'clock p.m. on Friday, February 1st, 1991 to submit their dissenting opinions to the Clerk of the Committee and that the opinions be appended to the Committee Report provided that the documents are no longer than five (5) 8 1/2 x 11 camera ready typed pages.

It was agreed,—That the Committee meet on Wednesday, February 6, 1991 at 9:00 o'clock a.m. for consideration of its revised Draft Report.

At 12:58 o'clock p.m., the Committee adjourned to the call of the Chair.

WEDNESDAY, FEBRUARY 6, 1991
(23)

The Special Committee on the subject matter of Bill C-80 (Firearms) met *in camera* at 9:13 o'clock a.m. this day, in Room 536, Wellington Building, the Chairman, John Reimer, presiding.

Members of the Committee present: Doug Fee, Ken Hughes, Russell MacLellan, Robert Nault, John Reimer, Pierrette Venne and Dave Worthy.

Other Member present: Benoît Tremblay.

In attendance: *From the Research Branch of the Library of Parliament*: William C. Bartlett, Nancy Holmes and Philip Rosen, Research Officers.

The Committee resumed consideration of its Order of Reference dated Friday, November 23, 1990, relating to the subject matter of Bill C-80, An Act to amend the Criminal Code and the Customs Tariff in consequence thereof. (*See Minutes of Proceedings, Wednesday, December 5, 1990, Issue No. 1*).

The Committee resumed consideration of its Draft Report.

It was agreed,—That the Draft Report, as amended, be the Committee's Report to the House.

It was agreed,—That a signature page be included in the Report.

It was agreed,—That the Chairman be authorized to make such grammatical and editorial changes to the Report as may be necessary without changing the substance of the Report.

It was ordered,—That the Chairman present the Report to the House or the Clerk of the House, pursuant to the order of the House adopted on December 19, 1990.

At 11:30 o'clock a.m., the Committee adjourned to the call of the Chair.

Bernard G. Fournier
Stephen Knowles
Clerks of the Committee