

Gun control exists because we allow it to



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Two years ago, Dr. Ted Morton of the University of Calgary published a study arguing that the Firearms Act and the related Criminal Code penalties violate many sections of the Canadian Charter of Rights and Freedoms. In a critique of the Morton study, the Parliamentary Information and Research Service of the Library of Parliament reaches opposite conclusions: the gun owner controls would survive virtually any charter challenge.

Although I hope that Dr. Morton is right, I fear that it is the Library of Parliament researchers who are correct. The reason is simple: this charter is not a real bill of rights. Whatever real rights it was meant to protect can be easily ignored by statist judges invoking their own interpretation of the "principles of fundamental justice" or the Section 1 "reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society."

The Library of Parliament report illustrates beautifully how the rule of law, whose function it was to protect the individual against the state, has become a sophisticated tool for the dignified state to use against individuals. One is constantly reminded of Alexis de Tocqueville's observations about lawyers and judges: "[I]f they prize freedom much, they generally value legality still more: they are less afraid of tyranny than of arbitrary power; and, provided the legislature undertakes of itself to deprive men of their independence, they are not dissatisfied."

According to the Library of Parliament report, "there is limit-

ed coercion to the extent that a person has the choice of whether or not to possess a firearm and therefore be subject to the Firearms Act." Thus, there could be a Religion Act and a Breeding Act that would control worshippers and parents as tightly as gun owners. Nice country!

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One point has monumental implications: "Barring evidence that significant numbers of individuals were being convicted and sentenced to jail for possession of a firearm without a registration certificate," the report argues, "it is likely that a court would reject arguments that the availability of imprisonment as a punishment . . . is contrary to the principles of fundamental justice." In other words, only when many resisters are jailed will the guardians of the charter take notice of an injustice.

To suggest there is no right to counsel when a firearms inspector searches somebody's dwelling, the Library of Parliament researchers invoke a case where "a majority of the Supreme Court of Canada concluded that a pat or a frisk search conducted by a customs official did not constitute a detention giving rise to the right to counsel . . . because . . . a person going through customs

generally expects to be searched." In other words, individuals may be legitimately oppressed when they generally expect to be. Oppression creates its own justification.

We should have known. When we don't make use of our rights and don't resist when Leviathan questions them, we signal that we have none. We should have resisted handgun registration in 1934, Bill C-150 in 1969, C-51 in 1977, and C-17 in 1991. Then we got C-68 in 1995. What's next?

The economic theory of collective action explains why resistance against the state is difficult. A single individual's interest is to keep quiet and let his neighbour take the risk and bear the cost of resistance. Since everybody makes the same reasoning, very few resist, and the steamroller of the state advances.

We are fortunate to have heroes who take the risk, like the unlicensed gun owners of the Canadian Unregistered Firearm Owners Association. Between late August and October 31, they have held four skeet shoots in different provinces with unregistered shotguns. Each time, they invited the RCMP to attend, but the cops did not show up.

Small, less costly acts of resistance can also help. In 2003, Kingsley Beattie, an Ottawa resident and former CSIS employee, who had owned guns for five decades, refused to answer one of the intrusive questions on his application form. He was denied a firearms licence, and is now suing the government. If only a small proportion of the 200,000 to 400,000 persons who renew their firearm licences every year refused to answer the obscene questions, the system would crumble.

If we don't resist, the judges will conclude that we all expect and love to be oppressed. **WS**

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