An Exposition
Concerning the Rights of Canadian Citizens to have
Armes for their Defense
Explaining how the Firearms Act of 1995 violates
the Constitution of Great Britain (the United Kingdom),
English Common Law,
the Constitution of Canada,
the Canadian Charter of Rights and Freedoms,
the common historical heritage of North America,
and our unique Canadian traditions and culture.

The Canadian Right of Armes for their Defense

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Summary

Armes for their Defense

I. The Issue:

The licensing of firearms owners turns a Right into a mere privilege.

In 1995 Parliament passed the *Firearms Act* which declared that the possession of a firearm without a licence would henceforth be a crime. This new licensing mandate went far beyond the 1977 Firearms Acquisition Certificate (FAC) requirement to obtain a police background check before purchasing a firearm.

More ominously, the government now claimed the authority to "prescribe" for responsible citizens "*the circumstances in which an individual does or does not need firearms to protect the life of that individual.*"

This is the same legal language that the British government used to destroy the ownership of firearms in Great Britain.

II. Our Beliefs

We believe that *Armes for their Defense* is a God-given, innate, Natural Right.

We believe we have the Right to acquire, own, and possess firearms for self-protection free from government "let or hindrance."

We believe that a law that presumes the authority to tell responsible citizens *if they may* possess firearms and *when they may* use those firearms for self-protection is not just and cannot claim our obedience.

We believe that the *Firearms Act* violates the *Constitution of Canada*, the *Canadian Charter of Rights and Freedoms,* Canadian Common Law, the mandates of God, Natural Law, and innate, basic common sense.

III. The Basis for our Beliefs

In 1689, after eighty years of severe internal turmoil, the English firmly established the Right to own firearms for personal protection in Article Seven of the *English Declaration of Rights.*

The *English Declaration of Rights* is extremely important in constitutional law as

it comprises part of the "unwritten" constitution of Great Britain (the United Kingdom).

By 1765 the Right to possess firearms for self-defense was firmly entrenched as part of English Common Law.

The British colonists carried these "Rights, Liberties, and Immunities" to North America in their Royal Charters. British Royal Proclamations affirmed these Rights for *all* North Americans - both to Aboriginal Peoples and to immigrant French and British settlers.

The preamble of the *British North America Act of 1867* incorporated these British Rights into our Canadian Constitution.

Firearms are part of our unique Canadian heritage and culture. Canadian history clearly demonstrates that firearms are a significant part of our Common Law.

In Canada, God, *not* Parliament, is supreme. God commands that we honour our life with self-defense.

IV. Our Methods

We want Parliament to repeal this unjust law. So far we have been unsuccessful in our demonstrations and our political efforts. While we continue the political fight we are asking the courts to intervene.

We have petitioned the courts to recognize the Right of *Armes for their Defense* in law and to declare the *Firearms Act* unconstitutional.

Our latest effort in what has become a long, protracted legal process is a Notice of Motion to the Court of Queens Bench in Saskatoon. We are asking the Court to declare the licensing section of the *Firearms Act* and the *Criminal Code* null and void.

We will not submit to an unjust law; we will not submit to licensing. Members of our Association have submitted affidavits to the Court attesting to our peaceful, nonviolent protection of our Rights and Freedoms.

The material which follows supports our court petition Q.B. No. 810 of 2007.

Armes for their Defense

Brief of Law

Court of Queen's Bench, Saskatoon

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Brief of Law

Court of Queen's Bench, Saskatoon

27 September 2007

Armes for their Defense

I. Introduction

The Basis of Our Complaint

01. My associates and I are in Court today to challenge the constitutional validity of one specific facet of the Firearms Act - the firearms licensing scheme.

02. We are aware that the Supreme Court reviewed a significant constitutional question in Alberta's Reference re Firearms Act.

03. However, Alberta's Reference only addressed the issue of the constitutional division of powers between the federal and provincial governments - see Reference Appendix Q.

04. The Supreme Court found that the Firearms Act "comes within Parliament's jurisdiction over criminal law;" the intrusion into provincial jurisdiction is "not so excessive as to upset the balance of federalism."

05. We have no concern with that esoteric intergovernmental debate. British Parliaments have been legislating against the criminal misuse of firearms since the Statute of Northampton in 1328 - see Appendix K.

06. Our Canadian Parliament has always had the authority to define and restrict the misuse of firearms, e.g., Parliament has required the registration of handguns in Canada since 1934

- see Examples of Firearms Control Laws in Canada - Appendix I and
For their Own Good - Firearms Control in Canada, Parts I & II
Book of Authorities, Book Two QB Moose Jaw

07. Our dispute with Parliament is specifically their firearms licensing scheme.

08. This is the crux of the matter - the "pith and substance" of the issue is the licensing of firearms owners.

09. In this so-called program to reduce crime Parliament has gone far beyond the acceptable requirement of the 1977 Firearms Acquisition Certificate to obtain a police background check before acquiring a firearm.

10. Parliament's new firearms licensing scheme makes the mere possession of a firearm a crime -see definition of "licence" - Appendix L.

11. Many a responsible citizen with a firearm locked securely in their home is now a "criminal."

12. Totally without valid reasons, Parliament has presumed to claim the authority to tell responsible citizens if we may acquire a firearm.

13. Without justification, Parliament has presumed to tell us how, when, and where we may use a firearm to defend ourselves.

14. Under Criminal Code Section 117.03 - which flows directly from the firearms licensing scheme of the Firearms Act - the government can now confiscate any firearm - at any time - from anyone - simply for "failure" to have a firearms license.

15. We believe this section is an unwarranted intrusion into our personal autonomy and is completely inexcusable.

16. We are here today to ask the Court to correct this injustice.

17. We maintain Canadians have the Right of "armes for their Defense."

18. We believe this Right is protected both by the Constitution of Canada and the Canadian Charter of Rights and Freedoms.

19. We submit that the firearms licensing scheme of the Firearms Act is beyond the authority of Parliament and violates ss 7 & 26 of the Charter.

20. Therefore we are here to ask the Court to declare that Criminal Code section 117.03

a) is ultra vires Parliament,

b) violates Section 26 of the Canadian Charter of Rights and Freedoms, and also

c) violates Section 7 of the Canadian Charter of Rights and Freedoms.

21. In support of this request we will show that the Right to acquire, own, and possess firearms without government let or hindrance is protected by:

a) the Constitution of Great Britain (the United Kingdom),
b) English Common Law,
c) the Constitution of Canada,
d) the common historical heritage of North America, and
e) our unique Canadian heritage and culture.

22. We will demonstrate that the firearms licensing scheme of the Firearms Act ignores the lessons of history; the need for arms for defense against tyranny and state sponsored genocide.

23. We will illustrate how the firearms licensing scheme of the Firearms Act attempts to negate the Biblical and moral imperative of self-preservation.

24. Now concerning the facts of why we are here.

II. Facts of the Case

25. The path that brings all of us to this Court today is rather convoluted - see Appendix J.

26. But the basic underlying event is simple; on Friday, 10 October 2003, an RCMP officer seized and confiscated my firearm simply because I did not have a firearms licence.

27. The officer stated that he based the confiscation upon authority of Criminal Code section 117.03.

28. This section of the Criminal Code flows directly from the firearms licensing scheme of the Firearms Act, Section 4 which provides:

> ... for the issuance of licences ... under which persons may possess firearms in circumstances that would otherwise constitute an offence ...
> .
> The Firearms Act, chapter 39, Statues of Canada -1995; p. 4
> Book Four / item 20

29. And Firearms Act, Section 117 which states:

> The Governor in Council may make regulations
>
> (a) regarding the issuance of licenses, authorization certificates and authorizations, including regulation respecting the purposes for which they may be issued ... and prescribing the circumstances in which persons are or are not eligible to hold licences; ...
>
> (c) prescribing the circumstances in which an individual does or does not need firearms
>
> (1) to protect the life of that individual, ...
>
> The Firearms Act, chapter 39, Statues of Canada -1995; p. 54
> Book Four / item 20

III. Argument at Law

30. Through the Firearms Act Parliament is attempting to degrade a Right into a mere privilege.

The Constitution of Great Britain

31. While the "constitution" of Great Britain is essentially "unwritten" it consists of five very well known components:

a) the Magna Carta, 1215,
b) the Petition of Rights, 1628,
c) the English Declaration of Rights, 1689,
d) the Act of Settlement, 1701, and
e) the Common Law

The English Declaration of Rights, 1689
Article Seven

32. We submit that our Right to possess firearms comes directly from the English Declaration of Rights, 1689, Article 7, which states:

> That the subjects which are Protestants may have arms for their defence suitable to their conditions and as allowed by law.
> English Declaration of Rights -1689
> Book Four / item 1

33. The relevant point of Article 7 is that the government can not pass laws which prevent responsible citizens from acquiring firearms as happened prior to

1689 -see Methods used to disarm the English, Appendix N.

What “Armes for their Defense” means

34. In 1689 the meaning of Article 7 of the English Declaration of Rights was quite clear. The framers of the Declaration intended never again to be disarmed and subjugated by a tyrannical ruler.

35. The words of the framers of the Declaration make that emphatic - see Appendix A.

“true, ancient, and indubitable”

36. In 1689 the English declared the Right to be armed for their defense as one of their “true, ancient, and indubitable” Rights.

37. The framers of the Declaration established this Right in a Convention Parliament before they offered the English crown to the Prince of Orange and Mary, - see The Significance of the Convention Parliament - Appendix B.

38. Significantly, the English then had to fight a bloody two-year war to secure these Rights, e.g.,

the Siege of Derry - 1689,
the Battle of the Boyne - 1690,
the Battle of Aughrim - 1691, and
the Siege of Limerick - 1691.

<u>English Common Law</u>

39. The Right of “Arms for their Defense” is established in English Common Law:

a) In 1739 in Rex versus Gardner:
The defense objected “that a gun is not mentioned is the statue of [the Game Act, 1706], and though there may be many things for the bare keeping of which a man may be convicted, yet they are only such as can used for the destruction of the game, whereas a guns necessary for defense of a house, or for a farmer to shoot crows.”
The court agreed with the defense and concluded: “We are of the opinion, that a gun differs from nets and dogs, which can only be kept for an ill purpose, and therefore the conviction should be quashed.”

Rex v. Gardner, Michaelmas Term, 12 Geo. 2
Book Three / item 3

b) In 1752 in Wingfield versus Stratford and Osman:
Plaintiff appealed his conviction and the confiscation of a gun and a dog, the dog being a “setting dog” and the gun “an engine” for killing game. The conviction was overturned. The court explained:
“It is not to be imagined, that it was the Intention of the Legislature, ... to disarm all the People of England. ... a gun may be kept for the Defense of a Man’s House, and for divers other lawful Purposes, ...
Wingfield vers. Stratford & Osman, Hilary Term, 25 Geo.II 1752
Book Three / item 4

c) In 1819 after the Peterloo Massacre in King against George Dewhurst & Others:
A man has a clear right to arms to protect himself in his house. A man has a clear right to protect himself when he is going singly or in a small party upon the road where he is traveling or going for the ordinary purposes of business.
King against George Dewhurst & Others
Book Three / item 2

40. While the British fought the Revolutionary War in the American Colonies, the Gordon Riot in London killed over four hundred people in June 1780.

41. In July 1780 the Recorder of London, the chief legal adviser to the mayor and council, attested:
The right of his majesty's Protestant subjects, to have arms for their own defence, and to use them for lawful purposes, is most clear and undeniable. It seems, indeed, to be considered, by the ancient laws of this kingdom, not only as a right, but as a duty; for all the subjects of the realm, who are able to bear arms, are bound to be ready, at all times, [for] the preservation of the public peace.
Malcolm, Joyce Lee, The Right of the People to Keep and Bear Arms: The Common Law Tradition, Hastings Constitutional Law Quarterly, Vol. 10: 285-314 (1983)
Book Five / item 3

42. While these court cases mentioned the right to defend one's house, William Blackstone in his 1765 "Commentaries" underscored perhaps the most compelling reason for the Right of individual ownership of firearms; the protection of all of our civil liberties:

> But in vain would these rights be declared, ascertained, and protected by the dead letter of the laws, if the constitution had provided no other method to secure their actual enjoyment ... 'auxiliary rights meant to protect all others' is that of having arms for their defense ... It is, indeed, a publick allowance under due restrictions, of the natural right of resistance and self preservation, when the sanctions of society and the laws are found insufficient to restrain the violence of oppression.

43. Blackstone acknowledged that "restraints" on the possession of firearms may be necessary, but he emphasized that the restraints would be:

> in themselves so gentle and moderate, as will appear upon farther inquiry, that no man of sense or probity would wish to see them slackened.
>
> William Blackstone, Commentaries on the Laws of England 4 vols.; 1st ed. (London, 1765-1769, repr Chicago, 1979), I:136 & 139

44. Significantly, even though revolution, rebellion, and riot, English Common Law has recognized and validated the private ownership of firearms free from the restraint of a firearms licence.

The Preamble
of the
British North America Act, 1867

45. The preamble to the *British North America Act* states that the Provinces of Canada shall be united:

> with a Constitution similar in Principle to the United Kingdom.
>
> *The British North America Act - 1867.* p.1
>
> Book Four / item 18

46. The Supreme Court has interpreted this phrase to establish British constitutional principles in Canada.

47. The Supreme Court has also clearly cited the 1689 *English Declaration of*

Rights in some very significant cases - Appendix P, e.g.,

a. Judicial independence:

Reference: re Remuneration Judges Prov Court P.E.I., [1997] 3 S.C.R. p. 5 Per C.J. Lamer
Book Two / item 5

b. Parliamentary privilege:

Canada (House of Commons) v. Vaid, [2005] SCC 30; p. 8,
Book 2 / item 3, para 21 & 34

c. Democratic principles:

Reference: re Secession of Quebec, [1998] 2 S.C.R. ; pp. 20 - 23
Book One/ item 2

d. Parliament's "inherent" self-regulating authority:

Reference: Resolution to Amend Constitution [1981] 1 S.C.R.;
Book One/ item 3. p.785

e. No cruel and unusual Punishments:

R. v. Smith (Edward Dewey), [1987] 1 S.C.R. 1045; p. 15,
Book Two / item 2. para 24

f. Presumption of innocence:

R. v. Demers, [2004] 2 S.C.R. 489, p. 21, para 82
Book Two/ item 1

48. Thus we submit that Article 7's "Armes for their Defense" of the English Declaration of Rights, 1687, is firmly entrenched alongside these other vital protections in our Canadian Constitution.

The Common History of North America

The Inherited "Rights, Privileges, and Immunities" of North Americans

"Let an Englishman go where he will,
he carries as much of law and liberty with him,
as the nature of things will bear."

49. Canadian history cannot be conveniently severed from North American history. What happened in the "thirteen American colonies" is intimately entwined with Canada's history.

The Royal Charters

50. The royal charters that the kings and queens of Great Britain issued to the North American colonists clearly demonstrate that the colonists carried the Rights of Englishmen with them to North America. -- see Appendix C.

51. The Royal Charter of Virginia of 1606 is typical:

> Also we do ... DECLARE ... that all and every the Persons being our Subjects, which shall dwell and inhabit within every or any of the said several Colonies and Plantations, and every of their children, which shall happen to be born within any of the Limits and Precincts of the said several Colonies and Plantations, shall HAVE and enjoy all Liberties, Franchises, and Immunities, within any of our other Dominions, to all Intents and Purposes, as if they had been abiding and born, within this our Realm of England, or any other of our said Dominions.
>
> First Virginia Charter - 1606
>
> Book Four / item 5

52. So firmly was this belief established that in 1720, Richard West, counsel to the English Board of Trade, gave this description of the state of law in the colonies:

> The Common Law of England is the Common Law of the Plantations, and all statutes in affirmance of the Common Law, passed in England antecedent to the settlement of a colony, are in force in that colony, unless there is some private Act to the contrary; though no statutes, made since those settlements, are there in force unless the colonies are particularly mentioned. Let an Englishman go where he will, he carries as much of law and liberty with him, as the nature of things will bear.
>
> Roy G. Weatherup, Standing Armies And Armed Citizens: An Historical Analysis of The Second Amendment, 1975 Hastings Constitutional Law Quarterly. Originally published as 2 Hastings Const. L.Q. 961-1001 (1975)

53. These royal charters, which were issued over a period of one hundred and twenty-five years by a succession of six monarchs, all have very similar statements regarding the need to have firearms for defense of their settlements. The 1632 Charter of Maryland is typical:

> But because, that in so remote a Region, placed among so many barbarous Nations, the Incursions as well of the Barbarians themselves, as of other Enemies, Pirates and Ravagers, probably will be feared. Therefore We have Given,... as full and unrestrained Power, as any Captain-General of an Army ever hath had, ... to summon to their Standards, and to array all men, of whatsoever Condition, or wheresoever born, ... to wage War, and to pursue, even beyond the Limits of their Province, the Enemies and Ravagers aforesaid, infesting those Parts by Land and by Sea, and (if God shall grant it) to vanquish and captivate them, and the Captives to put to Death, ...
> Charter of Maryland - 1632
> Book Four / item 9

54. Along with Indian attack, the English settlers of North America had to content with the warfare brought on by the complex European affairs of the mother country. By the late 17th century and for most of the 18th century war was almost continuous in North America with England fighting France and her Indian allies - see Appendix D.

55. Thus the possession of personal arms for defense was not only necessary, but militia training was a requirement.

> The Perpetual Acts of the General Assemblies of Nova Scotia, 1767
> Book Seven / item 10

Royal Proclamations

56. With General Wolfe's victory on the Plains of Abraham and Great Britain's ultimate victory over France for supremacy in North America, King George III's Royal Proclamation of 1763 now extended the guarantee of British liberty to all North Americans:

> [F]or the security of the Liberties and Properties of those who are and shall become Inhabitants thereof, ... by this Our Proclamation, ... under our Great Seal of Great Britain, ... those Colonies and Provinces in America which are under our immediate Government: ..., to make, constitute, and ordain Laws. Statutes, and Ordinances for the Public Peace, Welfare, and good Government of our said Colonies, and of the People and Inhabitants thereof, as near as may be agreeable to the Laws of England... .

Royal Proclamation - 1763
Book Four / item 14

57. The Quebec Act of 1774, and especially the Constitution Act of 1791, issued by King George III after the conclusion of the Revolutionary War, reaffirmed Britain's commitment to the established Rights and Freedoms of loyal Canadians. Especially noteworthy is the Constitution Act's requirement for all Canadians personally to "defend the King."

The Quebec Act - 1774
Book Four / item 15
The Constitution Act - 1791
Book Four / item 16

58. Thus, during the years leading up to Great Britain granting Canada her own constitution, Canadians continued to have the Right to possess firearms.

Basis for Aboriginal Rights

59. The significant importance of the Royal Proclamation is not lost to Canada's Aboriginal People. The words and actions of the British Crown form the basis of the the First Nation's hunting Rights and their claim for self-government.

Simon v. The Queen, [1985] 2 S.C.R. 387; p. 14
R. v . George, (1963), 41 D.L.R. (2d) 31; p.4
Book Three / items 7 & 8

60. Specifically concerning the importance of the Royal Proclamation of 1763 the Court noted:

> The Royal Proclamation must be interpreted liberally, and any matters of doubt resolved in favour of aboriginal peoples: ... Further, the Royal Proclamation must be interpreted in light of its status as the "Magna Carta" of Indian rights in North America and Indian "Bill of Rights": ...

R. v. Marshall; R. v. Bernard, 2005 SCC 43; p.19, para 86
Book Three / item 5

61. And very significantly:

> The Proclamation confers Rights on the Indians without necessarily thereby extinguishing any other right ....

R. v. Sioui, [1990] 1 S.C.R. 1025; p. 18

62. The Rights guaranteed to the citizens of Canada by the Royal Proclamation should be equally important to present-day Canadians whose forebears arrived by ship.

63. Thus, we suggest that the Right to have “armes for their Defense” arrived in Canada with our immigrant forebears from Great Britain.

Canada’s Unique Cultural Heritage: Responsible Firearm’s Ownership

64. Some Canadians, in a perverse desire “not to be like Americans,” have attempted to create a myth that Canada does not have a significant history of firearms. Nothing could be further from the truth.

65. Canada has a very long, and a very proud, tradition of the ownership and use of firearms.

66. From the earliest “discovery” of Canada by Europeans explorers, Canadians have acquired, possessed, and used firearms for self-protection.

67. We tend to forget that from Champlain’s first encounter with the Iroquois in 1609 the next two hundred years of Canadian history saw intermittent, but frequent international warfare, with subsequent massacres of Indians, and Indian massacres.

68. Even after the War of 1812, responsible citizens still counted upon personal firearms for protection of their home through numerous internal Canadian conflicts - see Appendix D.

69. As for the prevalence of the individual ownership of firearms, the Royal Canadian Legion website notes:

> By 1665 virtually every parish in what was known as "the new world" could muster some form of militia for local protection.
> http://www.legion.ca/asp/docs/about/MilHeritage_e.asp

70. Canadians have used their personal firearms to defend their homes and to defend their country, both from our neighbors to the south and from

international aggressors. It is indeed unfortunate that the over sixty-eight thousand Canadian dead from World War I and the over forty-six thousand Canadian dead from World War II are not buried in Canadian soil so that we would be more easily reminded of this sacrifice of arms.

71. With the European introduction of firearms as an item of trade into North America in the early seventeenth century, Canada's First Nations people very readily relinquished the bow and arrow for firearms for personal defense, warfare, and hunting. As the European demand for more furs from North America grew, so did the number of firearms in the fur trade.

72. As late as 1874, Queen Victoria, in her treaties with the Aboriginal People of Canada, stated:

> that yearly and every year she will cause to be distributed ... powder, shot, ball ....
>
> Bounty and Benevolence; A History of Saskatchewan Treaties
> Arthur Ray, Jim Miller, & Frank Tough, McGill-Queen's University Press, Montréal & Kingston, 2000

73. Our First Nations' people continue this tradition of hunting with firearms by Right of treaty.

> Simon v. The Queen, [1985] 2 S.C.R. 387; p.1
> Book Three / item 7

74. Firearms are part of our unique Canadian heritage and culture. For over three hundred years Canadians, both Aboriginal and immigrant, have acquired, owned, and used firearms responsibly without a licence.

75. Canada would not have emerged as an independent nation without responsible citizens, both settler and aboriginal, having had unfettered access to "powder, shot, ball" and the firearms in which to use them.

76. While some people may not be proud of our sanguinary national history and culture, we are not free to ignore it nor deny it. Firearms ownership is part of our unique Canadian heritage.

77. We submit that Parliament does not have the authority to deny the Right of responsible citizens to be armed.

78. The Right to firearms is an explicit part of our British heritage and is implicit in our Canadian history and culture.

79. I would like to call specific attention to the affidavits which my associates and I have submited testifying to that fact. These are statements from responsible citizens from all across Canada.

The American Perspective

80. We are aware that in Hasselwander Justice Cory was dismissive of the American jurisprudence concerning the Right of individuals to possess firearms.

R. v. Hasselwander, [1993] 2 S.C.R. 398 ; p. 8 para 2
Book Three / item 10

81. We sincerely hope this Court will thoughtfully consider the history of the debate in the United States over the issue of the Right of individual ownership of firearms.

82. As the enclosed six American articles and the 2004 opinion of the US Attorney General demonstrates, the jurisprudence of American law is based solidly on the English Declaration of Rights of 1689 - see Appendix E.

83. Americans inherited the Right to own firearms from their British forebears in the same manner as did we Canadians.

84. That Right was a well established part of North American culture well before the 1776 rupture with King George III.

85. I would hope that the Court would not ignore the knowledge and insight these American authorities have to offer.

86. When one compares the United States where the Right to “keep and bear arms” has so recently been reaffirmed, to Great Britain where the citizens have so recently lost the Right of self-defense and where the crime rate is so suddenly rising, one cannot help but be puzzled by the push of the British government to disarm the population - see Appendix S and Dr. Malcolm’s Exhibit E.

87. Dr Gary Mauser of Simon Fraser University makes clear in The Failed Experiment, Gun Control in Canada, Australia, England and Wales, the firearms

licensing schemes are having a perverted effect on crime.

Mauser, Gary A., The Failed Experiment Gun Control and Public Safety in Canada, Australia, England, and Wales Public Policy Sources No. 71 November 2003
Book Six /item 7

88. Several other prominent authors have also noted that crime in the United Kingdom is now worse than in the United States, and the crime rate in Canada is also continuing to rise.

David Kopel, The Failure of Canadian Gun Control , p.1
Book Seven / item 16.

Breitkreuz, MP., Garry, But Did Our gun Laws Actually Save Any Lives?
Press Release 30 June 2005

Breitkreuz, MP., Garry, RCMP Say They Have No Information on Why 70-Years of Registering Handguns Hasn't Worked,
Press Release 15 December 2004
Book Six / item 10

John Dixon, The gang that couldn't shoot straight, Globe & Mail, 28Jan2003
Book Seven / item 6

Goodchild, Sophie, & Paul Lashmar, Up to 4m guns in UK and police are losing the battle, The Independent 04 September 2005
Book Six /item 14

The Lesons of History:
Tyranny and State Sponsored Genocide

Those who cannot remember the past are condemned to repeat it.
- George Santayana
Life of Reason, Reason in Common Sense, Scribner's, 1905, p. 284

Protection from Tyranny

"I came to Ottawa in November with the firm belief that the only people in this country who should have guns are police officers and soldiers."
— Allan Rock, then Canada's Minister of Justice
Maclean's "Taking Aim on Guns", 1994 April 25, page 12.

89. Regrettably, history teaches that individuals more often need protection from their government than by their government. Abuse of government power - tyranny- is not a popular subject.

90. Lord Acton reminds us:

> Power tends to corrupt, and absolute power corrupts absolutely.

91. This corruption of power is not limited to dictatorships, but occurs just as easily in democratic states as Swiss author J.L. DeLolme, (1740-1806) noted of the English government in 1755,

> [It is] absolutely necessary, for securing the Constitution of a State, to restrain the Executive power ... it is still more necessary to restrain the legislative. What the former can do only by successive steps (I mean subvert the laws) and through a longer or shorter train of enterprises, the latter does in a moment. As its bare will can give being to the laws; so its bare will can also annihilate them: ... the Legislative power can change the Constitution as God created the light.
> J.L. DeLolme, The Constitution of England; or an Account of the English Government, (New York, 1792), p. 164

92. The necessity of the private, individual ownership of firearms as protection against tyranny is not simply an “outdated” American idea. Through the ages philosophers and statesmen have warned of the dangers of government abuse of power. The admonitions of the philosophers are recorded for our enlightenment and protection - see Appendix F.

93. In 1761 when James Otis wrote Against Writs of Assistance he did not consider it “a chimerical suggestion of a heated brain” to suggest that the Parliament of Great Britain was abusing the Liberties of her citizens.

94. Does it take an over-stimulated brain or a wildly fanciful imagination to suggest that in Canada we may one day need a defense from our own government?

95. Who other than a criminal or a tyrant would seek to disarm responsible citizens?

96. Shall we learn nothing from history; from Solzhenitsyn; from Blackstone, from Raleigh?

Defense Against State Sponsored Genocide

97. More people have been murdered by their government than by criminals.

Kates, Don B., Democide and Disarmament, SAIS Review 23.1, 305-309 (2003), p.1
Book Six/ item 6

98. That should be a sobering statement, but as the list of genocides reveals, genocide is not a once-in-a-millennium aberration that died with the defeat of the German Nazi war machine in May 1945. Genocide continues unabated - see Appendix G.

99. As the authors on the articles about genocide demonstrate, too many Canadians have been bombarded with false propaganda and therefore believe that firearms are inherently dangerous. Governments, not firearms, are more often the problem.

Kates, Don B., Henry E. Schaffer, Ph.D., John K. Lattimer, M.D., George B. Murray, M.D., & Edwin H. Classem, M.D. Guns and Public Health: Epidemic of Violence or Pandemic of Propaganda ? 61 Tenn. L. Rev. 513-596 (1994)
Book Six/ item 2

Polsby, Daniel D., & Don B. Kates, Of Holocausts and Gun Control, 75 Wash. U. L.Q. 1237 (1997)
Book Six/ item 4

Olson, Joseph E. & David B. Kopel, All the Way Down the Slippery Slope: Gun Prohibition in England and Some Lessons for Civil Liberties in America,
Hamiline Law Review Vol. 22, April 1999
Book Six/ item 5

100. As retired Canadian General Romeo Dallaire makes brutally clear in Shake Hands with the Devil, genocide is something that the people of the world must face, or be forced to endure again and again.

101. In light of these international outrages against humanity should citizens be forced to ask the government for permission to own firearms? Is Canada somehow immune to what is happening in the rest of the world?

102. The fact that the Canadian Criminal Code has recently been amended to include "hate crimes" seems to argue that Canada is not really that much different.

103. As Hurricane Katrina so graphically demonstrated, when the "thin veneer of civilization" is violently stripped away, self-protection becomes an individual responsibility.

> Gery Klein, It could very well happen here, StarPhoenix 01 Sept 2005
> Book Seven / item 18

When the duty to obey without question is accepted,
that is the moment of freedom's death.

104. That warning of Canadian historian, writer, and poet George Woodcock is apropos.

> George Woodcock (1912 - 1995), Civil Disobedience Seven Talks for CBC Radio, T.H. Best, Toronto 1966 CBC Publ, Box 500, Toronto

105. The *Firearms Act* demands obedience to rules and regulations which make the mere possession of a firearm illegal. Obedience to the *Firearms Act* would indeed be the moment of Freedom's death.

106. History teaches that citizens can not trust their government when the government begins to restrict the access to the necessary means to self-defense.

<u>The Reality in Canada</u>

107. When we argued these points in Provincial Court, Judge Orr ruled:

> It is possible that in some hypothetical future Canada where a tyranny has arisen, or, alternatively, where anarchy and lawlessness have broken out, even the relatively mild restrictions of section 117.03

would so hinder Canadians in their right of self-defense that the section might be rules by courts (if there still were any) to be an infringement of section 7. I can only comment that such social conditions do not presently exist, nor do they seem likely to exist in the foreseeable future. The courts must deal with reality as it is, not as it might be in some awful and hopefully never-to-be future. (emphasis added)
Judge Orr's Decision, Provincial Court transcript p. 8 [16]

108. Unfortunately, that misses the very point the English made in 1689. Once tyranny has arisen, we will have lost any hope that the courts would be able to protect our Rights.

109. The "reality" that we face today is that a licence merely to possess of a firearm serves no valid societal purpose. While making the means of self-protection illegal, licensing honest, responsible citizens does nothing to keep firearms from criminals .

110. The reality is that the government lied to Parliament by submitting improper data during the parliamentary debates.

Murray, J.P.R. , RCMP Letter to Mr. George Thompson, Deputy Minister of Justice
Garry Breitkreuz, M.P., Press Releases Re: RCMP Commissioner's Letter
Book Seven, item 13

111. The reality is that since Parliament made the means of self-protection illegal, violent crime in Canada has been steadily increasing.

Mauser, Gary A., The Failed Experiment Gun Control and Public Safety in Canada, Australia, England, and Wales Public Policy Sources No. 71 November 2003
Book Six, item 7

112. The reality is that the federal government has been relentless in its push for ever more and more restrictive firearm's legislation, e.g.:

- The Firearms Acquisition Certificate, Bill C-51, 1977,
- Expanded questions on FAC application, Bill C-17, 1991,
- Firearms licensing, Bill C-68, 1995.
- Explosive Components Act, 2005

113. While personal safety has been eroded, these laws have ushered in harsher

and harsher regulations, closing many firearms ranges, limiting access to gun shows, diminishing the number of gun shops, and even limiting reloading supplies for ammunition for hand loaders.

114. We beseech the Court to heed the warning of the philosophers:

> [It is] absolutely necessary ... to restrain the Executive power ... it is still more necessary to restrain the legislative.

Methods Used to Disarm the British

115. We need only witness what happened to civilian ownership of firearms in the United Kingdom:

> Before 1920 gun control was at least as lenient in Great Britain as in the United States.
> Gary Kleck Targeting Guns; Firearms and their Control
> QB Book of Authorities, item 13
> - see Methods used to disarm the British, Appendix O.

116. The British government began to slowly outlaw self-protection:

> As a general rule applications to possess firearms for house or personal protection should be discouraged on the grounds that firearms cannot be regarded as a suitable means for protection and may be a source of danger.
> "Memorandum for the Guidance of the Police," Home Office, Firearms Act, 1937.
> Joyce Lee Malcolm, Guns and Violence, The English Experience p. 171

117. From a "general rule" that applied only to "personal use" the British government expanded the prohibition:

> If should hardly ever be necessary to anyone to possess a firearm for the protection of his house or person ... this principle should hold good even in the case of banks and firms who desire to protect valuables or large quantities of money; only in very exceptional cases should a firearm be held for protection purposes.
> "Memorandum for the Guidance of the Police," Home Office, 1964, p.7
> Malcolm p. 171

118. From a "general rule" to a general restriction, to an absolute prohibition:

> It should never be necessary for anyone to possess a firearm for the

protection of his house or person.
"Memorandum for the Guidance of the Police," Home Office, September, 1969, p. 22
Malcolm p. 171

119. The United Kingdom has become:

> a nation in which law-abiding citizens have been effectively disarmed of all weapons for nearly fifty years, their rights of self-defense severely circumscribed, dependent upon inadequate police protection, their judicial system reluctant to incarcerate those offenders it is able to apprehend, affords only minimal deterrence. The result is a crime rate soaring to record levels ... In England fewer guns have meant more crime. In America more guns have meant less crime.
> Joyce Lee Malcolm, Guns and Violence, The English Experience, pp. 252 - 253

120. The English Declaration of Rights of 1689 was specifially designed to prevent this slow erosion of Rights.

121. The greatest folly which could befall the citizens of Canada would be to wait until "some awful and hopefully never-to-be future" has arrived and then attempt to petition the courts for the means to overthrow tyranny, or in desperation, search vainly for the means to protect ourselves from genocide.

Canadian General Roméo Dallaire on Genocide

122. Only in folly do we close our eyes to the occurrence of genocide. As observed retired Canadian General Roméo Dallaire:

> Almost fifty years to the day that my father and father-in-law helped to liberate Europe -- when the extermination camps were uncovered and when, in one voice, humanity said, 'Never again,' -- we once again sat back and permitted this unspeakable horror to occur.
>
> In 100 days - between April 6 and July 16, 1994 - an estimated 800,000 men, women and children were brutally killed in the obscure African country of Rwanda. The victims - many horrifically hacked to death ... the machete-wielding government-sponsored forces... a damning indictment of world leaders and UN bureaucrats who failed to stop the genocide. Even to write the story was painful.

General (Ret) Roméo Dallaire, Shake Hands with the Devil, Random House, Toronto, 2003
Book of Authorites, QB Saskatoon

123. Those slaughtered citizens were completely unarmed - defenseless before the onslaught.

124. And the United Nations - ostensibly the world's best hope for universal peace, with its Universal Declaration of Human Rights which contains a mandate to provide for means to resist tyranny and genocide - stood by and did essentially nothing to stop the slaughter.

United Nations, Universal Declaration of Human Rights,
10 December 1948
Book Six, item

125. General Dallaire's book is a stinging indictment of the civilian disarmament policy pushed by any government.

126. The obvious lesson from history: responsible citizens cannot allow government to control their access to firearms.

No government has the legitimate authority to forbit a person from exercising her human right to defend herself against a violent attack, or to forbit her from taking the steps and acquiring the tools necesasary to exercise that right.
The Human Right of Self-Defense, David Kopel, et al, BYU Journal of Public Law 2007
Book of Authorities QB Saskatoon, Item 1

127. When someone is breaking down the door, a telephone call to "911" is not sufficient to protect life.

128. We ask for no more, nor any less, than our British ancestors; that our Right to "armes for their defense" be restored to us.

Self-defense:
A Moral Imperative

The Bible, The Torah, and The Talmud

129. The Torah and the Old Testament of the Bible are rife with examples of God's instructions for His people to defend themselves - see Appendix H.

130. Not only are we to defend ourselves during invasions and foreign domination, we are to defend our homes and lives from thieves.

131. While the Sixth Commandment of the Old Testament, which is recognized as sacred Scripture by Jews, Christians, and Muslims, explicitly prohibits murder - "Thou shall not murder," The Torah, Exodus 20.13 - the scripture instructs persons to defend themselves with deadly force when their home is being robbed.

132.The Torah, Exodus 22.2 declares:

> If a thief be found breaking in, and be smitten so that he dieth, there shall be no bloodguiltiness for him.

133. The Jewish Talmud expands upon this premise:

> What is the reason for the law of breaking in ? Because it is certain that no man is inactive where his property is concerned; therefore this one [the thief] must have reasoned, "If I go there, he [the owner] will oppose me and prevent me; but if he does, I will kill him." Hence the Torah decreed "If he comes to slay thee, forestall by slaying him."
>
> Talmud, Tractate Sanhedrin. 1994, 2, 72a; The Babylonian Talmud: Tractate Berakoth 1990, 58a, 62b.

134. David Kopel explains:

> This ... is sometimes translated as "If someone comes to kill you, rise up and kill him first."
>
> This ... does not delegate discretion; it is a positive command. A Jew has a duty to use deadly force to defend ... against murderous attack.
>
> David B. Kopel, The Torah and Self-Defense, Penn State Law Review, Vol. 109, No. 1, pp. 17-42, 2004 ; p. 29
>
> Book Seven / item 3

135. The Current Catholic Catechism (1994) states the principle in this manner:

> 2321 The prohibition of murder does not abrogate the right to

render an unjust aggressor unable to inflict harm.

2263 "The act of self-defense can have a double effect: the preservation of one's own life; and the killing of the aggressor ... The one is intended, the other is not."[St. Thomas Aquinas, STh II-II, 64, 7, corp. art.]

2264 Love toward oneself remains a fundamental principle of morality. Therefore it is legitimate to insist on respect for one's own right to life. Someone who defends his life is not guilty of murder even if he is forced to deal his aggressor a lethal blow:
http://landru.i-link-2.net/shnyves/wlegitimate_defense.htm

136. While some religious groups suggest nonviolence in the face of personal attack, Thomas Paine succinctly states the underlining problem of this approach:

> Could the peaceable principle of the Quakers be universally established, arms and the art of war would be wholly extirpated: But we live not in a world of angels . . . [The] peaceable part of mankind will be continually overrun by the vile and abandoned, while they neglect the means of self defense. The supposed quietude of a good man allures the ruffian; while on the other hand, arms like the laws discourage and keep the invader and the plunder in awe, and preserve order in the world, as well as property. ... Horrid mischief would ensure were one half the world deprive of the use of them; the weak will become prey to the strong.
> Thomas Paine (1737 - 1809), Thoughts on Defensive War, 1775

137. Thus when asked about the utility of nonviolence as a means of self-defense, the leader of Tibetan Buddhism, The Dalai Lama, offered his belief:

> [l]ogically you have the responsibility to protect. Then if something attacks, a human being is going to attack on your child, then if you let that person attack not only does your child suffer, but then that person (also) committed a negative action. Then, I think, thinking both sides, the protection of your child ... – with that motivation stop, if necessary with some stick or even gun.
> If someone has a gun and is trying to kill you, it would be reasonable to shoot back with your own gun.

The Dalai Lama, CBC Interview & The Seattle Times May 15, 2001

138. The English philosopher John Locke captures the essence of self-preservation as "not simply or primarily a right, but ... a duty to God."

> [I]t being reasonable and just I should have a Right to destroy thast which threatens me with Destruction. For by the Fundamental Law of Nature ... one may destroy a Man who makes War upon him ... for the same Reason, that he may kill a Wolf, or a Lyon; because such Men are not under the ties of the Common Law of Reason ... so may be treated as Beast of Prey ...
>
> "This makes it Lawful for a Man to kill a Thief, who has not in the least hurt him ... let his pretense be what it will ... therefore it is Lawful for me ... to kill him if I can; for to that hazard does he justly expose himself ... ."
>
> John Locke, Second Treatise on Government, (in Two Treatises on Government, ed Peter Laslett, 278- 281, 284 [1988] in Gun Control and Rights, ed Andrew J. McClung, David B. Kopel, and Brannon P. Denning New York University Press, New York 2002

<u>An innate, universal Truth</u>

139. One does not need to be a believer in the Judeo-Christian God to have a firm belief in self-protection, for as Cicero (106 - 43 B.C) observed, self-protection is a universal truth:

> [T]herefore, is a law, O judges, not written, but born with us,--which we have not learnt or received by tradition, or read, but which we have taken and sucked in and imbibed from nature herself; a law which we were not taught but to which we were made,--which we were not trained in, but which is ingrained in us,--namely, that if our life be in danger from plots, or from open violence, or from the weapons of robbers or enemies, every means of securing our safety is honourable. For laws are silent when arms are raised, and do not expect themselves to be waited for ... .
>
> "In Defense of Titus Annius Milo" (in Selected Political Speeches of Cicero, ed. and trans. Michael Grant, 222 [1969])

140. Even Thomas Hobbes, the great apologist for the sovereignty of the monarchy recognized the inalienable right of self-preservation:

> Of the First and Second Natural Laws and of Contracts: A covenant not to defend myself from force, by force, is always void. For ... no man can transfer or lay down his right to save himself from death ...
>
> An individual can neither sell nor give away his right of self-defense. This is an inalienable right.
> Thomas Hobbes, Leviathan pt II Chap 29, pp. 80/82 & p. 85

141. Or as Hugo Grotius, the "Father of International Law" said:

> [W]hen our lives are threatened with immediate danger, it is lawful to kill the aggressor, if the danger cannot be otherwise avoided .... [T]his kind of defense derives its origin from the principle of self-preservation, which nature has given every living creature ... . For I am not bound to submit to the danger or mischief intended, any more than to expose myself to the attack of a wild beast.
> Hugo Grotius, The Rights of War and Peace,
> (ed. A.C. Campbell, 76 -77, [1901])

142. The practicality of having a firearm for self-defense was most vividly demonstrated by John Adams (1735 - 1826), defense attorney, in recalling the testimony at the trial of the British soldiers accused of murder in the so-called Boston Massacre of 1770, in which the unit commanding officer did not give the order to fire:

> [P]eople crying "kill them! kill them! knock them over!" heaving snowballs, oyster shells, clubs, white birch sticks. ... consider yourselves, in this situation, and then judge whether a reasonable man . . . would not have concluded they were going to kill him. He was knocked down at his station, ... Had he not reason to think his life in danger?
> If an assault was made to endanger their lives, the law is clear, they had the right to kill in self-defense . . . .
> from the trial of Pvt. Montgomery, accused of murder in the Boston Massacre, 1770. Constitutional Rights Foundation, Bill of Right in Action, Winter 19 (16:1)

http://www.crf-usa.org/bria/bria16_1.html

143. Even if God were dead - or even if God were never to have existed - we believe we have a moral imperative to protect ourselves.

144. Self-defense is hardwired into our very physiology whether by God or Darwinian evolution.

145. To defend ourselves we must have effective means to do so. For the government to require a licence to those means is for the government to deny those means.

146. We can not be true to our faith nor properly heed the lessons and the teachings of the Bilble if we, in the absence of criminal conviction, surrender our means of self-protection to the government.

The Supremacy of God

Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law:

147. The preamble to the Charter of Rights and Freedom recognizes two founding principles:

> Canada is founded upon principles that recognize the supremacy of God and the rule of law
>
> The Constitutions Act, Schedule B, 1982;
>
> Book Four / item 19, p.1

148. Halsbury's The Laws of England clearly establishes the identity of the God mentioned in the preamble - see Appendix T.

149. Many of the cases which I have reviewed dwell long and laboriously on "The Rule of Law."

> Reference: Manitoba Language Rights, [1985] 1 S.C. R. 721;
>
> Book One / item 1, p. 2

150. The "supremacy of God" must likewise carry highly significant meaning - see Appendix W.

151. The “supremacy” of God would seem to command a higher rank than the rule of law.

152. The courts have the authority to remind Parliament of its constitutional limitations before God, before the natural principles of the universe.

Some common law Rights presumably lie so deep
that even Parliament could not override them.

153. Lord Cooke of New Zealand has postulated:

> Some common law Rights presumably lie so deep that even Parliament could not override them.
> Lord Cooke, Taylor v New Zealand Poultry Board,
> [1984] 2N.Z.L.R. 394
> quoted by Kirby, Michael D., AC, CMG, “Lord Cooke and Fundamental Rights” Conference Auckland, 4/5 April 1997
> Book of Authorities QB Moose Jaw, item 2, @ fn# 37

154. Justice Michael D. Kirby of Australia disagreed -see Appendix V.

Unwritten Constitutional Principles

155. But Chief Justice Beverley McLachlin seems to agree with Lord Cooke:

> There exist fundamental norms of justice so basic that they form part of the legal structure of governance and must be upheld by the courts, whether or not they find expression in constitutional texts. (p.2)
> Unwritten constitutional principles [refer to] the ancient doctrine of natural law. Like those concepts of justice, ... these principles presuppose the existence of some kind of natural order ... derived from history, values, and the culture of the nation, viewed in its constitutional context. (p.5)
> Beverley McLachlin, CJ, Unwritten Constitutional Principles: What is Going On? Lord Cooke Lecture, Wellington, New Zealand, 01 December 2005.
> Book of Authorities, QB Moose Jaw item 1, - see Appendix U.

156. The English Declaration of Rights, British Common Law, Canadian custom and heritage, the common background for our North American jurisprudence, the necessity for defense against tyranny and genocide, the United Nations’

Universal Declaration of Human Rights, and the supremacy of God - all these point to a common bedrock underlying the Right of Armes for their Defense.

Rights are not absolute

The most stringent protection of free speech would not protect a man in falsely shouting fire in a theatre and causing a panic.
Oliver Wendell Holmes
U.S. Supreme Court SCHENCK v. U.S. , 249 U.S. 47 (1919)

157. The Supreme Court recognizes that:

> The rights and freedoms guaranteed by the Charter are not, however, absolute. It may become necessary to limit rights and freedoms in circumstances where their exercise would be inimical to the realization of collective goals of fundamental importance.
> R. v. Oakes 1 S.C.R. [1986] 103, p. 17
> Book Seven / item 19

158. But the criminalization of the mere possession of a firearm goes far beyond the scope of the “so gentle and moderate” restraint recognized by William Blackstone.

illegal exercise of power

159. The Supreme Court has stated:

> The Courts will not question the wisdom of enactments which, by the terms of the Canadian Constitution are within the competence of the Legislatures, but it is the high duty of this Court to insure that the legislatures do not transgress the limits of their constitutional mandate and engage in the illegal exercise of power.
> Reference: Manitoba Language Rights, [1985] 1 S.C. R. 721
> Book One / item 1, p. 12, para. 49

160. We assert that Parliament has attempted an illegal exercise of power.

IV. Conclusions

> In a world where children's hands are hacked off with machetes and bombs are detonated in marketplaces, where young women are burned alive as punishment for affairs of the heart, civilization

clearly remains a work in progress. Our aspirations are shadowed by the stubborn brutality of the human animal, which, it seems, cannot be tamed and can only be kept at bay.

Time Magazine, 03 September 2007, p. 7 - see Appendix R

A. The English Declaration of Rights of 1689

161. The English Declaration of Rights of 1689 definitively stated that responsible citizens may have "armes for their defense."

162. English Common Law confirmed the Right of all citizens to be armed; "a gun may be kept for the Defense of a Man's House."

163. The English Declaration of Rights of 1689 is in force in Canada:

- Article 9 - the inherit authority of Parliament and parliamentary privilege,
- Article 10 - protection against cruel and unusual punishment, and
- Article 11 - the presumption of innocence,

164. The Court must surely recognize Article 7 as part of our Canadian Constitution.

B. The Common History of North America

165. The common history of North America confirms that firearms are an essential part of our national heritage and culture.

C. The Importance of Canadian Culture

166. Our unique Canadian culture and heritage affirms the Right of "armes for their defense".

D. Defense Against Tyranny and Genocide

167. Tyranny and genocide are as real in the 21st century as they were in England in 1689.

168. Are we to close our eyes and ears and ignore three hundred years of warnings by our English and international philosophers?

169. Is it reasonable or rational to "trust the government" with our lives when

we cannot even trust the government ot honour their election promises?

170. Must we first suffer under a tyrannical government before we may ask the courts for redress?

E. Self-defense: A Moral Imperative

171. The Right of arms for defense is God-given, innate, a Natural Law, and is an unwritten constitutional principle.

172. The Firearms Act, and the subsequently enacted portions of the Criminal Code, specifically Section 117.03, violates our Right of “armes for their Defense”.

173. Common sense, our understanding of the lessons of history, and our faith in God demand that we protect that Right.

174. I have not been charged with a crime, yet I was disarmed.

175. To allow the seizure, confiscation, and destruction order of my shotgun to stand in the total absence of any criminal charges would destroy over three hundred years of Canadian tradition and history.

176. To allow the government to destroy my firearm in absence of any criminal conviction is to invite the worst form of tyranny.

177. By using Criminal Code section 117.03 the federal government can disarm all the responsible citizens of Canada and never lay a charge.

178. Can the Court ignore three hundred years of Canadian culture and allow Parliament to prescribe “the circumstances in which an individual does or does not need firearms to protect the life of that individual”?

179. We respectfully petition the Court of Queen’ Bench to set aside the Provincial Court’s decision of 06 December 2005, to declare Criminal Code section 117.03 unconstitutional, and to order the RCMP to return my shotgun.

Sincerely,

Edward B. Hudson DVM, MS
402 Skeena Crt

Saskatoon, Saskatchewan S7K 4H2
1-306-242-2379
17 September 2007

Appendix A

The Words of the Framers of the *English Declaration of Rights, 1689*

The significance of the English Declaration of Rights is inherent in the words of the drafters of the document. Recorded over three hundred years ago, these are the words of the Parliamentary drafters:

Anthony Cary, Lord Falkland:

> It concerns us to take such care, that, ... we may secure ourselves from Arbitrary Government. The Prince's Declaration is for a lasting Government. I would know what that foundation is.

Mr. Garroway:

> We have had such Violation of our Liberties in the last reigns, that the prince of Orange cannot take it ill, if we make conditions, to secure ourselves for the future; and in it we shall but do justice to those who sent us hither, and not deliver them up without good reason.

Sir William Williams:

> When we have considered the preservation of the Laws of England for the future, then it will b e time to consider the persons to fill the Throne.

Sir Richard Temple, complained of the previous king's malicious intention:

> to disarm all England [and] to provide for a standing army [in peacetime].

Said another:

> Redeem us from Slavery; What you omit now is lost for ever.

To the concern that they could not cover everything necessary, Edward Seymore challenged:

> Will you do nothing, because you cannot do it all? Will you establish the Crown, but not secure yourselves ?

Sir John Maynard, at age eighty-six the "father of the House," was incensed

that:

> An Act of Parliament was made to disarm all Englishmen, whom the Lieutenant should suspect, by day or night, by force or otherwise ... an abominable thing to disarm a nation ... .

Of the abuses of the militia, Mr. Boscawen complained:

> [U]nder pretense of persons disturbing the government, disarmed and imprisoned men without any cause ... I myself was so dealt with.

Thomas Earl:

> There is a law made against it soe that tis not the gun or musket that offends but the man that makes ill use of his Armes and he may be punished for it by the law.

Mr. Finch:

> No safety but the consent of the nation - The constitution being limited, there is good foundation for defensive arms - It has given us right to demand full and ample security.

The House agreed to assert:

> Rights and Liberties of the Nation, to bring in general Heads of such things as are absolutely necessary for securing the Laws and Liberties of the Nation.

As note by a contemporary commentator, Englishmen are "the freest subjects under heaven" because they have the right:

> to be guarded and defended from all Violence and Force, by their own Arms, kept in their own hands, and used at their own charge ... .

On 13 February 1689 the Convention Parliament presented to William and Mary the Declaration of Rights. That document of thirteen " true, ancient, and indubitable" Rights and Liberties forever proclaimed:

That the Subjects which are Protestants
may have Armes for their defense
Suitable to their condition and as allowed by Law.

As Bishop Gilbert Burnet stated in his history, the Convention Parliament had presented a document meant to be no less than "a new Magna Carta."

Above quotes from:

Joyce Lee Malcolm, *To Keep and Bear Arms, the Origins of an Anglo-American Right*, Harvard University Press, 1994 pp. 113 - 121

Appendix B

The Significance of the Convention Parliament

In January 1689 (New Style date), the Lords and Commons assembled as a Convention Parliament to declare the throne vacant and to invite William and Mary to become King and Queen of England. Before they did so, they took two weeks to formulate a Declaration of Rights to ensure that their “true, ancient, and indubitable Rights” would never again be usurped.

The Declaration of Rights is not simply an act of Parliament. A Convention Parliament is not “summoned” or called in the normal manner. The Convention Parliament device has only been used three times throughout a thousand years of English history. In all three cases the Convention Parliament was used to resolve an highly unusual circumstance.

The Declaration of Rights is significantly more than mere “legislation.” The Declaration of Rights is an international treaty signed as an agreement between a sovereign people and a prince of a foreign nation.

Convention Parliament

The term Convention Parliament has been applied to three different English Parliaments, of 1399, 1660, and 1689.

The definition of the term convention parliament is generally taken to be: "A parliament which does not derive its authority or legitimacy from an existing or previously enacted parliamentary action or process".

Features of the convention parliaments

The features which unite the three convention parliaments and which mandate their status as convention parliaments, are:

- The recognition by the convention of the preceding parliamentary process as having come to an end of its powers in terms of determining future parliamentary proceedings
- The implicit self-empowerment of the parliamentary convention to act in place of the preceding process, thereby establishing its own legitimacy in

determining the future of parliamentary proceedings

Convention Parliament of 1399

The first example of a convention parliament (a parliament which is not often referred to as a 'convention parliament' but is always recognized as being one) in September 1399, came about as a result of the deposition of King Richard II of England and a parliament which accepted Henry Bolingbroke as King Henry IV of England.

Convention Parliament of 1660

The second example is the Convention Parliament also known as the English Convention which was elected in April 1660. It was elected after the Rump of the Long Parliament had finally voted for its own dissolution. It was predominantly Royalist in its constitution. It assembled for the first time on the April 25, 1660.

The Convention, after the Declaration of Breda had been received on the 8th of May, declared that King Charles II had been the lawful monarch since the death of Charles I in January 1649. The Convention Parliament then proceeded to conduct the necessary preparation for the Restoration Settlement. These preparations included the necessary provisions to deal with land and funding such that the new regime could operate.

Convention Parliament of 1689

This parliament, which met in 1689 after the departure of King James II of England, formally recognized Prince William of Orange as King William III of England.

A assembly of the Lords Spiritual and Temporal, and the Commons, the Convention convened on Jan. 22, 1689 to deal with the crisis created by the

arrival of William , the flight of James II, the collapse of the government, and the disappearance of the Great Seal. On Feb. 12, 1689, the Convention approved the Declaration of Rights, which enumerated the crimes and illegalities of James II, declared the throne vacant, and resolved that William and Mary be made king and queen. On Feb. 20, 1689, one week after William and Mary became king and queen, the Convention enacted the Parliament Act of 1689, 1 W. & M., ch. 1, which transformed the convention into a Parliament, later known as the "Convention Parliament."

http://www.answers.com/topic/convention-parliament
http://www.lawsch.uga.edu/~glorious/convention.html

Appendix C

British Royal Charters of North American

- The Raleigh Charter granted by Elizabeth I in 1585
- The Charter of Virginia granted by James I in 1606
- Nova Scotia granted by James I in 1625
- The Charter of Massachusetts Bay granted by Charles I in 1629
- The Charter of Maryland granted by Charles I in 1632
- The Connecticut Colony Charter granted by Charles II in 1662
- The Charter of South Carolina granted by Charles II in 1663
- Royal Charter of the Hudson's Bay Company by Charles II in 1670
- Charter of Massachusetts Bay granted by William & Mary in 1691
- The Charter of Georgia by granted George II in 1732

Appendix D

Use of Firearms in Canada

Wars in Canada

1. Indian Beaver Wars 1640-1670
2. European Wars also fought in North America
    a. King William's War 1689–97 (War of the Grand Alliance)
    b. Queen Anne's War 1702–13 (War of the Spanish Succession)
    c. King George's War 1744 - 48 (War of the Austrian Succession)
    d. The French and Indian War 1754 - 63 (The Seven Years War)
3. Pontiac's Rebellion 1763
4. Revolutionary War 1775 - 1783
5. War of 1812
6. Battle of Seven Oaks 1816 (Hudson Bay Co. v. NorthWest Company)
7. Patriot's Rebellion in Lower Canada 1837
8. The Upper Canada Rebellion 1837
9. Caroline Affair 1837
10. Aroostook Border War 1839
11. The Pig War 1859 (San Juan Boundary Dispute)
12. Fenian Invasions 1865
13. Red River Rebellion 1869
14. Northwest Rebellion 1885

.... next page

Canadians in Foreign Wars

- Boer War in South Africa 1899 - 1902
- World War I 1914 - 1918
- World War II 1939 - 1945
- Korean War 1950 -1953

Canadian International Peace Keepers

Since 1947, the Canadian Forces have completed 72 international operations, e.g.,

- Suez 1956
- Cypress 1964
- Middle East 1974
- Rwanda 1994
- Bosnia-Herzegovin 1995
- Afghanistan 2004 - current

Appendix E

American Jurisprudence

To Keep and Bear Arms

- Report of the Subcommittee of the United States Senate, The Right to Keep and Bear Arms February 1982

- Caplan, David I. The Right of the Individual to Bear Arms: A Recent Judicial Trend 4 Det. L.R. 789-823 (1982)

- Malcolm, Joyce Lee, The Right of the People to Keep and Bear Arms: The Common Law Tradition, Hastings Constitutional Law Quarterly, Vol. 10:285-314 (1983).

- Hardy, David T. Armed Citizens: Towards a Jurisprudence of the Second Amendment 9 Harv. J.L. Pub. Pol'y 559-638 (1986)

- Vandercoy, David E. The History of the Second Amendment 28 Val. L. Rev. 1007-1039 (1994)

- Cottrol, Robert J. & Raymond T. Diamond, The Fifth Auxiliary Right Yale Law Journal, Vol. 104: 995-1026 (1995)

- Malcolm, Joyce Lee, Gun control and the Constitution: Sources and Explorations on the Second Amendment Tennessee Law Review vol. 62, no. 3 (1995)

- Memorandum Opinion for the Attorney General Whether the Second Amendment Secures an Individual Right 24 August 2004

Appendix F

The Admonitions of the Philosophers

****

the basic principle of a tyrant is
to unarm his people of weapons,
money, and all means whereby they resist his power.

Sir Walter Raleigh (1552 - 1618) who was framed in a plot against James I.

The Works of Sir Walter Raleigh, ed T. Birch, 8 vols (Oxford, 1829), 3:22 (pp 9)

***

The election or suffrage of the people is most free,
where it is made or given in such a manner that it can neither oblige nor disoblige another, nor through fear of an enemy,
or bashfulness toward a friend, impair a man's liberty.

James Harrington (1611–1677)

English political philosopher and author of *Commonwealth of Oceana* (1656) who was imprisoned in the Tower of London and held without trial by Charles II.

http://www.constitution.org/jh/oceana.htm

***

Self-preservation (is) a duty to God ... according to the God of Nature.
It is the first and foremost of our
inalienable rights without which we can preserve no other.

John Locke (1632-1704)

English philosopher whose influence is reflected in the *American Declaration of Independence*:

> Any single man must judge for himself whether circumstances warrant obedience or resistance to the commands of the civil magistrate; we are all qualified, entitled, and morally obliged to evaluate the conduct of our rulers. This political judgment, moreover, is not simply or primarily a right, but like self-preservation, a duty to God. As such it is a judgment that men cannot part with according to the God of Nature. It is the first and

foremost of our inalienable rights without which we can preserve no other.

For the legislative acts against the trust reposed in them when they endeavour to invade the property of the subject, and to make themselves, or any part of the community, masters or arbitrary disposers of the lives, liberties, or fortunes of the people.

§ 222. Whensoever, therefore, the legislative shall transgress this fundamental rule of society, and either by ambition, fear, folly, or corruption, endeavour to grasp themselves, or put into the hands of any other, an absolute power over the lives, liberties, and estates of the people, by this breach of trust they forfeit the power the people had put into their hands for quite contrary ends, and it devolves to the people, who have a right to resume their original liberty, and by the establishment of a new legislative (such as they shall think fit), provide for their own safety and security, which is the end for which they are in society.
John Locke, Two Treatises of Government, (1680-1690)

***

That which is not just, is not Law;
and that which is not Law, ought not to be obeyed

Algernon Sydney (1623 – 1683)
English political writer executed by Charles II:

[T]he principle of liberty in which God created us . . . includes the chief advantages of the life we enjoy, as well as the greatest helps towards felicity, that is the end of our hopes in the other. I:2:5

[T]hey could not . . . lay more approved foundations, than, that man is naturally free; that he cannot be justly deprived of that liberty without cause; and that he does not resign it, or any part of it, unless it be in consideration of a greater good, which he proposes to himself. I:2:5

The Liberty of a people is the gift of God and nature. III:33:406.

The legislative power is always arbitrary, and not to be trusted in

the hands of any who are not bound to obey the laws they make. III:45:455.

It is ill, that men should kill one another in seditions, tumults, and wars; but it is worse, to bring nations to such misery, weakness, and baseness, as to have neither strength nor courage to contend for anything; to have nothing left worth defending, and to give the name of peace to desolation. II:26:206.
Algernon Sidney, *Discourses Concerning Government*, ed. Thomas West, Indianapolis, Ind.: Liberty Classics, 1990

***

The possession of arms is the distinction
between a freeman and a slave

Andrew Fletcher (1653 - 1716)
Member of the Scottish Parliament who understood the process of parliament very well:

The possession of arms is the distinction between a freeman and a slave. He who has nothing, and belongs to another, must be defended by him, and needs no arms: but he who thinks he is his own master, and has anything he may call his own, ought to have arms to defend himself and what he possesses, or else he lives precariously and at discretion. And though for a while those who have the sword in their power abstain from doing him injury; yet, by degrees, he will be awed into submission to every arbitrary command. Our ancestors, by being always armed, and frequently in action, defended themselves against the Romans, Danes and English; and maintained their liberty against encroachments of their own princes.
Andrew Fletcher, *A Discourse of Government With Relation to Militias*, (1698)

***

the Legislative power can change the Constitution
as God created the light

J.L. DeLolme (1740-1806)

Swiss author made this observation of the English government in 1755:

> [It is] absolutely necessary, for securing the Constitution of a State, to restrain the Executive power ... it is still more necessary to restrain the legislative. What the former can do only by successive steps (I mean subvert the laws) and through a longer or shorter train of enterprises, the latter does in a moment. As its bare will can give being to the laws; so its bare will can also annihilate them: ... the Legislative power can change the Constitution as God created the light.
>
> J.L. DeLolme, *The Constitution of England; or an Account of the English Government*, (New York, 1792), p. 164

***

an appeal from the sovereignty of the people
to the sovereignty of mankind

Alexis de Tocqueville (1805 - 1859)

French political thinker and writer:

> When I refuse to obey an unjust law, I do not contest the right of the majority to command, but I simply appeal from the sovereignty of the people to the sovereignty of mankind. Some have not feared to assert that a people can never outstep the boundaries of justice and reason in those affairs which are peculiarly its own; and that consequently full power may be given to the majority by which it is represented. But this is the language of a slave.
>
> Alexis de Tocqueville, *Democracy in America*, Vol. I 1835 & Vol. II, 1840

***

A nation's ultimate security (is) held in its own hand;
the power of the sword

Thomas Macaulay (1800 - 1859)

British poet and historian:

> The Englishman's ultimate security depended not upon the Magna Carta or parliament but upon 'the power of the sword' ... the legal

check was secondary and auxiliary to that which the nation held in its own hands ... the security without which every other is insufficient.

Thomas Macaulay, *Critical and Historical Essays*, Contributed to Edinburgh Review, vol I (Leipzig, 1860) pp 154-162

***

the natural right of resistance and self-preservation

William Blackstone (1723 - 1780)

English jurist and professor:

The fifth and last auxiliary right ... is that of having arms for their defense, ... of the natural right of resistance and self-preservation, when the sanctions of society and laws are found insufficient to restrain the violence of oppression. ... security, of personal liberty, and of private property. So long as these remain inviolate, the subject is perfectly free; for every species of compulsive tyranny and oppression must act in opposition to one or other of these rights, having no other object upon which it can possibly be employed. To preserve these from violation, ... to vindicate these rights, when actually violated or attacked, the subjects of England are entitled ... to the right of having and using arms for self-preservation and defense. And all these rights and liberties it is our birthright to enjoy entire; ... .

William Blackstone, *Commentaries on the Laws of England*, (1765 - 1769)

***

When we elect persons to represent us in parliament ...
We make a lodgment, not a gift;

James Burgh (1714-1775)

Scottish writer who advocated parliamentary reform:

When we elect persons to represent us in parliament ... We make a lodgment, not a gift; we entrust, but part with nothing. And, were it possible, that they should attempt to destroy that constitution which we had appointed them to maintain, they can no more be

held in the rank of representatives than a factor, turned pirate, can continue to be called the factor of those merchants whose goods he had plundered, and whose confidence he had betrayed. ... .

That all history shows the necessity, in order to the preservation of liberty, of every subjects having a watchful eye on the conduct of Kings, Ministers, and Parliament, and of every subjects being not only secured, but encouraged in alarming his fellow subjects on occasion of every attempt upon public liberty.
James Burgh, *Political Disquisitions: Or, an Enquiry into Public Errors, Defects, and Abuses*, London, 1774-1775

***

A man's house is his castle

James Otis (1725 - 1783)
British colonist living in Massachusetts who knew firsthand of the abuses of the legislative power of Parliament:

Now, one of the most essential branches of English liberty is the freedom of one's house. A man's house is his castle; and whilst he is quiet, he is as well guarded as a prince in his castle. This writ, if it should be declared legal, would totally annihilate this privilege. Custom-house officers may enter our houses when they please; we are commanded to permit their entry. Their menial servants may enter, may break locks, bars, and everything in their way; and whether they break through malice or revenge, no man, no court can inquire. Bare suspicion without oath is sufficient.

This wanton exercise of this power is not a chimerical suggestion of a heated brain.
James Otis, Against Writs of Assistance, February 1761.

****

The Legislative has no right to absolute,
no arbitrary power over the lives and fortunes of the people

Samuel Adams (1722 - 1803)

British colonist and defense attorney living in Massachusetts:

> Among the natural rights of the Colonists are these: First, a right to life; Secondly, to liberty; Thirdly, to property; together with the right to support and defend them in the best manner they can. These are evident branches of, rather than deductions from, the duty of self-preservation, commonly called the first law of nature. ...
>
> If men, through fear, fraud, or mistake, should in terms renounce or give up any essential natural right, the eternal law of reason and the grand end of society would absolutely vacate such renunciation. The right to freedom being the gift of God Almighty, it is not in the power of man to alienate this gift and voluntarily become a slave.
>
> The absolute rights of Englishmen and all freemen, in or out of civil society, are principally personal security, personal liberty, and private property.
>
> All persons born in the British American Colonies are, by the laws of God and nature and by the common law of England, exclusive of all charters from the Crown, well entitled, and by acts of the British Parliament are declared to be entitled, to all the natural, essential, inherent, and inseparable rights, liberties, and privileges of subjects born in Great Britain or within the realm. Among those rights are the following, ...
>
> The Legislative has no right to absolute, arbitrary power over the lives and fortunes of the people; nor can mortals assume a prerogative not only too high for men, but for angels, and therefore reserved for the exercise of the Deity alone.
> Samuel Adams, The Rights of the Colonists, November 20, 1772

***

Necessity is the plea for every infringement of human liberty;
it is the arguments of tyrants; it is the creed of slaves

William Pitt, "the Younger" (1759 - 1806),
British politician and later Prime Minister, who advocated peace with the American colonies and parliamentary reform:

Necessity is the plea for every infringement of human liberty; it is the arguments of tyrants; it is the creed of slaves.
Speech in the House of Commons, November 18, 1783

***

A man who has nothing which he is willing to fight for, ...
is a miserable creature who has no chance of being free,
unless made and kept so by the exertions of better men than himself

John Stuart Mill (1806 - 1873)
British philosopher and plotical economist:

War is an ugly thing, but not the ugliest of things: the decayed and degraded state of moral and patriotic feeling which thinks nothing worth a war, is worse. ... A war to protect other human beings against tyrannical injustice; a war to give victory to their own ideas of right and good, and which is their own war, carried on for an honest purpose by their free choice,—is often the means of their regeneration. A man who has nothing which he is willing to fight for, nothing which he cares more about than he does about his personal safety, is a miserable creature who has no chance of being free, unless made and kept so by the exertions of better men than himself.
John Stuart Mill, "The Contest in America," *Dissertations and Discussions,* vol. 1, p. 26 (1868). First published in Fraser's Magazine, February 1862

***

The right of the citizens to keep and bear arms
has justly been considered as the palladium of the liberties

Joseph Story (1779 - 1845)
Associate Justice, U.S. Supreme Court:

The right of the citizens to keep and bear arms has justly been considered as the palladium of the liberties of a republic; since it offers a strong moral check against the usurpation and arbitrary

power of rulers; and will generally, even if these are successful in the first instance, enable the people to resist and triumph over them.

Joseph Story, *Commentaries on the Constitution of the United States*, Hillard, Gray & Co., Boston, 1833

***

Among the many misdeeds of the British rule in India,
history will look upon the act of
depriving a whole nation of arms, as the blackest.

Mahatma Gandhi (1869 - 1948)

Mahatma Gandhi, The Story of my Experiment with Truth p. 238

***

The rifle hanging on the wall
is the sympol of democracy.

George Orwell (1903 - 1950)

English author and journalist; author of *Animal Farm* and *Nineteen Eighty-Four*:

That rifle hanging on the wall of the working-class flat or labourer's cottage is the symbol of democracy. It is our job to see that it stays there.

Michael Shelden, *Orwell: The Authorized Biography*, New York: HarperCollins Publishers, 1991, p. 328

***

Who would deprive men of the use of fire
for fear of their being burnt?

Cesare Beccaria (1738-1794)

Italian utilitarian reformer:

A principal source of errors and injustice are false ideas of utility. ... who would sacrifice a thousand real advantages to the fear of an imaginary or trifling inconvenience; who would deprive men of the use of fire for fear of their being burnt, and of water for fear of their being drowned; and who knows of no means of preventing evil but

by destroying it.

> The laws of this nature are those which forbid to wear arms, disarming those only who are not disposed to commit the crime which the laws mean to prevent. Can it be supposed, that those who have the courage to violate the most sacred laws of humanity, and the most important of the code, will respect the less considerable and arbitrary injunctions, the violation of which is so easy, and of so little comparative importance? Does not the execution of this law deprive the subject of that personal liberty, so dear to mankind and to the wise legislator? and does it not subject the innocent to all the disagreeable circumstances that should only fall on the guilty? It certainly makes the situation of the assaulted worse, and of the assailants better, and rather encourages than prevents murder, as it requires less courage to attack unarmed than armed persons.
> Cesare Beccaria , Of Crimes and Punishments, 1764
> Translated by Edward D. Ingraham. 2nd American ed.
> Philadelphia, Philip H. Nicklin 1819

***

Those who would give up essential Liberty,
to purchase a little temporary Safety,
deserve neither Liberty nor Safety.

Benjamin Franklin (1706 - 1790)
author, political theorist, politician, printer, scientist, inventor, civic activist, and diplomat.

> An Historical Review of the Constitution and Government of Pennsylvania, 1759.

***

paling with terror at every bang of the downstairs door

Aleksandr Solzhenitsyn (1918 -)
Russian novelist, dramatist, historian - and a survivor of the Soviet gulag:

> How we burned in the prison camps later thinking: What would things have been like if every police operative, when he went out at

night to make an arrest, had been uncertain whether he would return alive? If during periods of mass arrests people had not simply sat there in their lairs, paling with terror at every bang of the downstairs door and at every step on the staircase, but had understood they had nothing to lose and had boldly set up in the downstairs hall an ambush of half a dozen people with axes, hammers, pokers, or whatever was at hand? The organs would very quickly have suffered a shortage of officers and, notwithstanding all of Stalin's thirst, the cursed machine would have ground to a halt. Aleksandr Solzhenitsyn, *The Gulag Archipelago*, Vol. I, p.13 Note 5

Appendix G

Government Sponsored Genocide

Canada: 1755 Acadians

United States: 1830 Cherokee Indians

Turkey: 1866 Armenians

United States: 1890 American Indians

Turkey: 1911 Armenians

Soviet Union: 1929 - 1953 political opposition

Soviet Union: 1932 - 1933 Ukraine

Japan: 1937 Rape of Nanking

Germany: 1938 - 1945 Jews, Gypsies, & Homosexuals

Soviet Union: 1944 Chechnya

China: 1949 -1952

China: 1957 - 1960

Guatemala: 1960 - 1981 Maya Indians

China: 1966 - 1976 Cultural Revolution

Nigeria: 1967 - 1970 Biafra

United States: 1968 My Lai, South Viet Nam

Uganda: 1972 - 1979 Acholi & Lango

Cambodia: 1977 - 1979 Killings Fields

Iraq: 1988 Kurds

China: 1989 Tiananmen Square

Rwanda: 1994 Tutsi

Yugoslavia: 1995 Bosnians

Somalia: 1991 -1995 southern Somalians

Indonesia: 1999 East Timor

Sudan: 2003 - current Darfur

Appendix H

The Torah and The Bible

Scriptural examples of Self-defense:

Abraham defending Lot (Genesis 14.13-20),

> When Abram heard that his kinsman had been taken captive, he led forth his trained men, ... went in pursuit ... and routed them ... After his return from the [victory], Melchizedek ... priest of the God Most High ... blessed him ... .

Moses against Pharaoh (Exodus 13.18 - 15.3),

> Torah v. 13.18b "and the children of Israel went up armed out of the land of Egypt."

Joshua against the Amalekites (Exodus 17.8 - 14), Torah vv.9 & 13

> And Moses said unto Joshua: "Choose us out men, and go out, fight with Amalek; tomorrow I will stand on the top of the hill with the rod of God in my hand."
>
> And Joshua discomfited Amelek and his people with the edge of the sword.

Joshua against the Amorites (Joshua 10.5 - 11), v. 7

> So Joshua went up ... he, and all the people of war with him, ... And the Lord said, "Do not fear them, for I have given them into your hands ... ."

Deborah against the Canaanites (Judges 4.6 - 8),

> Now Deborah, a prophetess, ... said to [Barak], "The Lord God of Israel commands you, 'Go, gather your men ... I will draw ... the general ... with his chariots and his troops; and I will give him into your hand.' "

Gideon against the Midianites (Judges 6.11 - 7.25), vv. 7.19

> So Gideon and the hundred men with him came to the outskirts of the camp ... And the three companies blew the trumpets and broke the jars ... and cried, "A sword for the Lord and for Gideon!" ... the Lord set every man's sword against his fellow ... and the army fled ..

Samson against the Philistines (Judges 16.23 - 31), v. 23

> Now the lords of the Philistines gathered ... So they called Samson out of prison, and he made sport before them ... Then Samson called to the Lord ... Then he bowed with all his might; and the house fell upon the lords and upon all the people that were within it ... .

David against Goliath (I Samuel 17. 12 - 53), vv. 37 - 46

> And David said, "The Lord who delivered me from the paw of the lion and from the paw of the bear, will deliver me from the hand of this Philistine ... then .... he chose five smooth stones from the brook ... with his sling ... Then David said to the Philistine, "You come to me with a sword and a spear and with a javelin; but I come to you in the name of the Lord of hosts ... This day the Lord will deliver you into my hand, and I will strike you down, and cut off your head ... that all earth may know that there is a God in Israel ... .

the Jews in Persia (Ester 8.11 - 14), v. 11

> By these [writings] the king allowed the Jews who were in every city to gather and defend their lives, to destroy, to slay, and to annihilate any armed force of any people or province that might attack them.

Nehemiah in Jerusalem (Nehemiah 4.16 - 20). vv. 11 - 15

> And our enemies said, "They ... kill [us] and stop the work." ... So ... I stationed the people ... with their swords, their spears, and their bows. ... and said ... "Do not be afraid of them. Remember the Lord, who is great and terrible, and fight for your brethren, your sons, your daughters, your wives, and your homes."

Harper Study Bible The Holy Bible, Revised Standard Version, Harold Lindsell, Zondervan Bible Publishers, Grand Rapids, Michigan, 1978
The Torah, Henry Holt & Company, New York, 1996

Appendix I

Examples of Firearms Control Laws in Canada

I came to Ottawa in November with the firm belief that the only people in this country who should have guns are police officers and soldiers.
— Allan Rock, Canada's Minister of Justice
Maclean's "Taking Aim on Guns", 1994 April 25, page 12.

In 1994 when Allan Rock introduced Bill C-68, Canada already had some of the best firearms safety measures in the world:

1977 Bill C-51: introduced the Firearm Acquisition Certificate (FAC) and made certain firearms "classes" "prohibited" and "restricted".
David Kopel, The Failure of Canadian Gun Control , p.1
Book Seven / item 16.

1991 Bill C-17: made the application procedure for an FAC far more restrictive and onerous.
Coalition for Gun Control, The Gun Control Story
Book Seven / item 17

Thus, in Canada, as contrasted to the United States, fully automatic firearms are classified "Prohibited," and all handguns and some types of rifles are classified as "Restricted." Ownership of these types of firearms require special registration certificates for possession, and since 1977 all firearm sales have been restricted to persons who have undergone police background checks.
R. v. Schwartz, [1988] 2 S.C.R. 443
R. v. Hasselwander, [1993] 2 S.C.R. 398
R. v. Zeolkowski, [1989] 1 S.C.R. 1378
Book Three / items 11, 10, & 9

Appendix J

Facts concerning the confiscation of my firearm

"The pathway to Court"

On 10 October 2003 Jack Wilson and I were out in an isolated field north of Davidson, Saskatchewan, in a rural location designated by the Province of Saskatchewan as a hunting area.

We both had provincial hunting licenses, wildlife habitat certificates, and federal migratory game bird permits.

Neither of us had a licence to possess firearms.

Responding to our prior faxed communication in which we notified the local RCMP detachment of our plans and intentions, the RCMP attended to our location.

While I was in obvious "Unauthorized Possession of a Firearm," the attending RCMP officer made no mention of Criminal Code s. 91(1):

> every person commits an offense unless the person is the holder of (a) a licence under which the person may possess it. ... .

Nonetheless the officer seized and confiscated my shotgun pursuant to s. 117.03.

As per s. 117.03 the RCMP gave me fourteen days in which to produce a licence to claim my shotgun. I had no licence to produce as I had previously burned my Firearms Acquisition Certificate (FAC) on Armistice Day 2001 in protest of the Firearms Act.

On 02 March 2004 the RCMP requested a court sanctioned destruction order of my shotgun.

At that time I advised the court that I would attempt to establish that I am "lawfully entitled to possess" my shogun without a firearms licence based upon the personal Liberty guarantees in the Canadian Charter of Rights and Freedoms.

On 17 August 2004 I submitted our Notice of Charter Challenge as required under the Constitutional Questions Act.

On 07 September 2004 Mr. Wilson and I made our first Charter argument before the Judge Orr in Provincial Court of Saskatchewan.

On 04 January 2005 Jack Wilson and I again appeared before Judge Orr. At this time Federal Senior Crown Counsel Mr. Scott Spencer was present representing the Attorney General of Canada. Judge Orr, Mr. Spencer, Jack Wilson and I then all conferred and agreed on the new 'ground rules' for our next appearance. I was instructed to specify clearly the items we intended to challenge in our next appearance.

On 20 April 2005 I submitted a revised Notice of Charter Challenge under the Constitutional Questions Act - see Appendix X.

Subsequently Mr. Wilson and I made our Charter argument on 04 October 2005, and Judge Orr gave written reason for not accepting our argument on 06 December 2005.

With Judge Orr's destruction order of 02 May 2006, and after two unsuccessful attempts to have the Court hear an appeal, we have now applied to this Honourable Court's original and exclusive jurisdiction to interpret and declare that the statutory intent and meaning of Section 117.03 of the Criminal Code.

Appendix K

Statute of Northampton

2 Edw. 3, c. 3 (1328)

Item, it is enacted, that no man great nor small, of what condition soever he be, except the king's servants in his presence, and his ministers in executing of the king's precepts, or of their office, and such as be in their company assisting them, and also [upon a cry made for arms to keep the peace, and the same in such places where such acts happen,] be so hardy to come before the King's justices, or other of the King's ministers doing their office, with force and arms, nor bring no force in affray of the peace, nor to go nor ride armed by night nor by day, in fairs, markets, nor in the presence of the justices or other ministers, nor in no part elsewhere, upon pain to forfeit their armour to the King, and their bodies to prison at the King's pleasure. And that the King's justices in their presence, sheriffs, and other ministers in their bailiwicks, lords of franchises, and their bailiffs in the same, and mayors and bailiffs of cities and boroughs, within the same cities and boroughs, and borough-holders, constables, and wardens of the peace within their wards, shall have power to execute this act. And that the justices assigned, at their coming down into the country, shall have power to enquire how such officers and lords have exercised their offices in this case, and to punish them whom they find that have not done that which pertained to their office.

The Founders' Constitution
Volume 5, Amendment II, Document 1
http://press-pubs.uchicago.edu/founders/documents/amendIIs1.html
The University of Chicago Press

Appendix L

definition of "licence"

a "licence" is:

A Revocable permission to commit some act that would otherwise be unlawful,

Black's Law Dictionary, 7th ed, Bryan A. Garner editor, West Group,
1999
Book Seven / item 2

Appendix M

The Autonomy of the Individual

The Right to Life and Security of Person

Rodriguez v. British Columbia [1993] 3 S.C.R.

> the right to security of the person included in s. 7 of the Charter ... has an element of personal autonomy, which protects the dignity and privacy of individuals with respect to decisions concerning their own body.
>
> Book of Authorities, QB Moose Jaw. item 8

R. v. Morgentaler, [1988] 1 S.C.R. 30

> The right to "liberty" contained in s. 7 guarantees to every individual a degree of personal autonomy over important decisions intimately affecting his or her private life. Liberty in a free and democratic society does not require the state to approve such decisions but it does require the state to respect them.
>
> Book of Authorities, QB Mosse Jaw. item 7

Godbout v. Longueuil (City), [1997] 3 S.C.R. 844

> The right to liberty in s. 7 goes beyond the notion of mere freedom from physical constraint and protects within its scope a narrow sphere of personal autonomy wherein individuals may make inherently private choices free from state interference.
>
> Book of Authorities, QB Mosse Jaw, item 9

The guarantees of life and security of person are meaningless without the means to secure that life.

> Kopel, David, et al, The Human Right of Self-Defense, *BYU Journal of Public Law* 2007, Book of Authorities QB Saskatoon, Item 1

Appendix N

Methods Used to Disarm the English
1660 to 1689

1660 April: Parliament asks Charles II to return

1660 May: Coronation of Charles II

Priviy Council Order, 1660

all gunsmiths to report production of firearms
and names of customers

Militia Act, 1662

An Act declaring the sole right of the Militia to be in the King
permitted militia officers to disarm subjects at their discretion

Royal Proclamations

1660, 1661, 1662, 1664, 1665, 1670
Banishment of the Veterans

The Game Act, 1671

> Game keepers "may take and seize all such Guns, Bowes, Greyhounds, Setting-doggs ... Snares, or other Engines for the taking or killing of game ... persons, who by this act are Prohibited to keep or use the same.

In all previous game acts all devices used in the act of poaching could be seized, while all others designed exclusively for hunting were illegal per se.
Now all these (including firearms) were illegal per se. (pp 70)

Requirement of property to hunt severely increased; requirement now fifty times the amount required to vote.

Notes from:
Joyce Lee Malcolm, *To Keep and Bear Arms; The Origins of an Anglo-American Right*, Harvard University Press Cambridge, Massachusetts 1994

Appendix O

Methods Used to Disarm the British
1903 to 2007

Before 1920 gun control was at least as lenient in Great Britain as in the United States.

Gary Kleck Targeting Guns; Firearms and their Control

The United Kingdom has become:

> a nation in which law-abiding citizens have been effectively disarmed of all weapons for nearly fifty years, their rights of self-defense severely circumscribed, dependent upon inadequate police protection, their judicial system reluctant to incarcerate those offenders it is able to apprehend, affords only minimal deterrence. The result is a crime rate soaring to record levels ... In England fewer guns have meant more crime. In America more guns have meant less crime.
>
> Joyce Lee Malcolm, *Guns and Violence, The English Experience*

Pistols Act, 1903

prohibited sale of pistols minors & felons

The Firearms Act, 1920

Required a firearms certificate for anyone wishing to "purchase, have in his possession, use, or carry any firearm or ammunition."

The local chief of police was to decide who could obtain such a certificate and exclude anyone of intemperate habits, unsound mind, or anyone he considered "for any reason unfitted to be trusted with firearms."

Applicant had to convince he police officer that he had a "good reason for requiring such a certificate."

The "good reason" to be decided by practice.

Certificate to specify the type of firearm, but also the quantity of ammunition an individual could purchase and hold at any one time.

Certificate would expire after three years, renewal for an additional fee and need to be re-qualified.

Penalty for violation: a fine not exceeding fifty pounds, or imprisonment with or

without hard labor for a term not exceeding three months, or both.

Guidance from the Home Office, 1920

Policy stated in a secret document:

> It would be a good reason for having a firearm if a person lives in a solitary house, where protection from thieves and burglars is essential, or having been exposed to definite threats to life on account of his performance of some public duty.

And also the chief of police was to be satisfied that the grant of the certificate to the particular person was:

> without danger to the public safety or to the peace, and must judge this chiefly from the person's character, antecedents and associations, so far as can be ascertained.

Firearms Act, 1937

Extended controls to shotguns and other smoothbore firearms with barrels less than twenty inches.

"Memorandum for the Guidance of the Police"
Home Office, 1937

> As a general rule applications to possess firearms for house or personal protection should be discouraged on the grounds that firearms cannot be regarded as a suitable means for protection and may be a source of danger.

"Memorandum for the Guidance of the Police,"
Home Office, 1964

> It should hardly ever be necessary to anyone to possess a firearm for the protection of his house or person ... this principle should hold good even in the case of banks and firms who desire to protect valuables or large quantities of money; only in very exceptional cases should a firearm be held for protection purposes.

"Memorandum for the Guidance of the Police"
Home Office, 1969

> It should never be necessary for anyone to possess a firearm for the protection of his house or person.

Prevention of Crime Act, 1953

Banned public carriage of all offensive, or potentially offensive, weapons and to transfer to the police sole responsibility for the protection of individuals.

Hungerford Massacre, August 1987

The Firearms Act, 1988

Shotguns now have same stringent controls as handguns and rifles

Dumblane Massacre, 13 March 1996

Firearms Act (No. 2), 1997

Complete handgun ban

The *English Declaration of Rights of 1689* was specifically designed to prevent this slow erosion of Rights.

Notes from:

Joyce Lee Malcolm, *To Keep and Bear Arms; The Origins of an Anglo-American Right*, Harvard University Press Cambridge, Massachusetts 1994

and

Joyce Lee Malcolm, *Guns and Violence, The English Experience*, Harvard University Press Cambridge, Massachusetts 2002

Appendix P

A Constitution

"*Similar in Principle*"

The Importance of the Preamble to the British North America Act
and
the English Declaration of Rights 1689
in Canadian Constitutional Law

The preamble to the British North America Act states that the Provinces of Canada shall be united with a Constitution:

similar In Principle to the United Kingdom.

The British North America Act - 1867. p.1
Book Four / item 18

The Preamble's "similar in Principle"

Several very significant Supreme Court cases testify to the menaing of this phrase:

a. Judicial independence

Reference: re Remuneration of Judges:

Judicial independence is an unwritten norm, recognized and affirmed by the preamble to the Constitution Act, 1867 -- in particular reference to "a Constitution similar in principle the that of the United Kingdom ... The preamble ... invites the courts to turn those principles into the premise of a constitutional argument that culminates in the filling of gaps in the express terms of the constitutional text ...

Reference: re Remuneration Judges Prov Court P.E.I., [1997] 3 S.C.R.
p. 5 Per C.J. Lamer
Book Two / item 5

b. Parliamentary privilege:

Canada (House of Commons) v. Vaid

21 Parliamentary privilege, therefore, is one of the ways in which the fundamental constitutional separation of powers is respected. In

Canada, the principle has its roots in the preamble to our Constitution Act, 1867 which calls for "a Constitution similar in Principle to that of the United Kingdom". Each of the branches of the State is vouchsafed a measure of autonomy from the others. Parliamentary privilege was partially codified in art. 9 of the U.K. Bill of Rights of 1689, 1 Will. & Mar., sess. 2, c. 2, but the freedom of speech to which it refers was asserted at least as early as 1523 (Erskine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament (23rd ed. 2004), at p. 80). Parliamentary privilege is a principle common to all countries based on the Westminster system, and has a loose counterpart in the Speech or Debate Clause of the United States Constitution, art. 1, § 6, cl. 1.

34 Historically, the legislative source of some privileges (e.g., art. 9 of the Bill of Rights of 1689) did not diminish the jurisdictional immunity they attracted. In Bradlaugh v. Gossett (1884), 12 Q.B.D. 271, Stephen J. stated, at p. 278:

> I think that the House of Commons is not subject to the control of Her Majesty's Courts in its administration of that part of the statute-law which has relation to its own internal proceedings... [Emphasis added.]

The same rule was adopted in Canada (Temple v. Bulmer, [1943] S.C.R. 265; Carter v. Alberta (2002), 222 D.L.R. (4th) 40, 2002 ABCA 303, at para. 20, leave to appeal refused, [2003] 1 S.C.R. vii). The immunity from external review flowing from the doctrine of privilege is conferred by the nature of the function (the Westminster model of parliamentary democracy), not the source of the legal rule (i.e. inherent privilege versus legislated privilege). The doctrine of privilege attaching to a constitution "similar in Principle to that of the United Kingdom" under the preamble to the Constitution Act, 1867 is not displaced by the wording of s. 32(1) of the Charter. As was pointed out in New Brunswick Broadcasting, parliamentary privilege enjoys the same constitutional weight and status as the Charter itself.

Canada (House of Commons) v. Vaid, [2005] SCC 30; p. 8, para 21 &34
Book 2 / item 3

English Declaration of Rights 1689:

c. Deomcratic principles

Reference: Re Secession of Quebec:

Our Constitution is primarily a written one, the product of 131 years of evolution. Behind the written word is an historical linage stretching back through the ages which aids in the consideration of the underlying constitutional principles ... they are vital unstated assumptions upon which the text is based {paragraph 49} ...

Canadians have long recognized the existence and importance of unwritten constitutional principles in our system of government {paragraph 52} ...

Underlying constitutional principles may in certain circumstances give rise to substantive legal obligations (have "full legal force and effect," as we described in the Partition Reference ... .{paragraph 54} ...

The evolution of our democratic principles can be traced back to the Magna Carta (1215) and... in the English Bill of Rights of 1689 ... and eventually, the achievement of the Constitution itself in 1867. {paragraph 63}

Reference: re Secession of Quebec, [1998] 2 S.C.R. ; pp.20 - 23
Book One/ item 2

d. Parliament's "inherent" self-regulating authority:

Reference: Resolution to Amend the Constitution

It is unnecessary here to embark on any historical review of the "court" aspect of Parliament and the immunity of its procedures from judicial review. Courts come into the picture when legislation is enacted and not before (unless references are made to them ...). It would be incompatible with the self-regulating -- "inherent" is as apt a word-- authority of Houses of Parliament to deny their capacity to pass any kind of resolution. Reference may appropriately be made to art. 9 of the [English] Bill of Rights of 1689, undoubtedly in force as part of the law of Canada ... .

Reference: Resolution to Amend Constitution [1981] 1 S.C.R.; p. 785
Book One/ item 3

e. Citizens' most basic freedoms:

Nor cruel and unusual Punishments

We in Canada adopted through the preamble of our constitution the legislative restraint set out in s. 10 of the English Bill of Rights of 1688 (sic 1689), I Wm. & M. sess. 2, c. 2, which states:

10. That excessive bail ought not be required, nor excessive fines imposed; nor cruel and unusual Punishments inflicted.

R. v. Smith (Edward Dewey), [1987] 1 S.C.R. 1045; p. 15, pra 24
Book Two / item 2

f. Presumption of innocence:

[I]n importing certain principles found in the United Kingdom, the Constitution Act, 1867 incorporated principles of civil liberties and human rights embedded in English constitutional history ... "residing in the theory of government these documents proclaim." These documents ... were the Magna Carta and the [English] Bill of Rights of 1689 ... .

R. v. Demers, [2004] 2 S.C.R. 489, p. 21, para 82
Book Two/ item 1

Appendix Q

Reference re Firearms Act

1 In 1995, Parliament amended the Criminal Code, R.S.C., 1985, c. C-46, by enacting the Firearms Act, S.C. 1995, c. 39, commonly referred to as the gun control law, to require the holders of all firearms to obtain licences and register their guns. In 1996, the Province of Alberta challenged Parliament's power to pass the gun control law by a reference to the Alberta Court of Appeal. The Court of Appeal by a 3:2 majority upheld Parliament's power to pass the law. The Province of Alberta now appeals that decision to this Court.

2 The issue before this Court is not whether gun control is good or bad, whether the law is fair or unfair to gun owners, or whether it will be effective or ineffective in reducing the harm caused by the misuse of firearms. The only issue is whether or not Parliament has the constitutional authority to enact the law.

3 The answer to this question lies in the Canadian Constitution. The Constitution assigns some matters to Parliament and others to the provincial legislatures: Constitution Act, 1867. The federal government asserts that the gun control law falls under its criminal law power, s. 91(27), and under its general power to legislate for the "Peace, Order and good Government" of Canada. Alberta, on the other hand, says the law falls under its power over property and civil rights, s. 92(13). All agree that to resolve this dispute, the Court must first determine what the gun control law is really about – its "pith and substance" – and then ask which head or heads of power it most naturally falls within.

…4

4 We conclude that the gun control law comes within Parliament's jurisdiction over criminal law. The law in "pith and

substance" is directed to enhancing public safety by controlling access to firearms through prohibitions and penalties. This brings it under the federal criminal law power. While the law has regulatory aspects, they are secondary to its primary criminal law purpose. The intrusion of the law into the provincial jurisdiction over property and civil rights is not so excessive as to upset the balance of federalism.

Reference re Firearms Act (Can) [2000] 1 S.C.R. p. 4

Book Three / item 1

Appendix R

the stubborn brutality of the human animal

Thursday, Aug. 23, 2007
By DAVID VON DREHLE

In a world where children's hands are hacked off with machetes and bombs are detonated in marketplaces, where young women are burned alive as punishment for affairs of the heart, civilization clearly remains a work in progress. Our aspirations are shadowed by the stubborn brutality of the human animal, which, it seems, cannot be tamed and can only be kept at bay.

One notable success: the rise of regulated athletic competition to take the place of blood sport as mass entertainment. In Rome at the height of its imperial glory, gladiators by the thousands fought to the death before cheering crowds. They hacked one another with swords; they were torn to pieces by wild animals. Most of them perished in near anonymity, but some became idols and sex symbols--men such as Celadus the Thracian, immortalized as "the young girls' heartthrob," and Crescens, "the netter of young girls by night."

Michael Vick, an NFL quarterback, battled the Bears and the Lions rather than actual bears and lions--a seemingly simple step up in terms of civilization but one for which Vick ought to have been deeply thankful. Along with his "netting" license, he stood to gain $100 million or more. He risked sprains and bruises instead of severed arteries and a crushed skull. His career might be measured in decades rather than hours.

But Vick's dogs were not so lucky. On Aug. 20 he agreed to plead guilty to federal charges stemming from his involvement in the blood sport of dogfighting. There are additional allegations that he shot, hanged and electrocuted dogs that lost. He faces prison, the loss of millions and maybe even the end of his career.

A number of people have argued that the punishment is far too harsh, given that pit bulls have been bred over several centuries to fight and that, after all, these are just dogs in a world where worse cruelties are suffered by humans. And why should a killer of dogs go to prison while butchers of hogs go to the fair?

All good points. Perfect consistency may be too much to expect, however, from

our veneer of civilization. The Vick case isn't about children or farming; it is about suffering and death as entertainment. A modern gladiator, of all people, ought to know what's wrong with that.

Appendix S

Wouldn't you feel safer with a gun?

British attitudes are supercilious and misguided

Richard Munday

From The Times of London
September 8, 2007

Despite the recent spate of shootings on our streets, we pride ourselves on our strict gun laws. Every time an American gunman goes on a killing spree, we shake our heads in righteous disbelief at our poor benighted colonial cousins. Why is it, even after the Virginia Tech massacre, that Americans still resist calls for more gun controls?

The short answer is that "gun controls" do not work: they are indeed generally perverse in their effects. Virginia Tech, where 32 students were shot in April, had a strict gun ban policy and only last year successfully resisted a legal challenge that would have allowed the carrying of licensed defensive weapons on campus. It is with a measure of bitter irony that we recall Thomas Jefferson, founder of the University of Virginia, recording the words of Cesare Beccaria: "Laws that forbid the carrying of arms . . . disarm only those who are neither inclined nor determined to commit crimes . . . Such laws make things worse for the assaulted and better for the assailants; they serve rather to encourage than to prevent homicides, for an unarmed man may be attacked with greater confidence than an armed man."

One might contrast the Virginia Tech massacre with the assault on Virginia's Appalachian Law School in 2002, where three lives were lost before a student fetched a pistol from his car and apprehended the gunman.

Virginia Tech reinforced the lesson that gun controls are obeyed only by the law-abiding. New York has "banned" pistols since 1911, and its fellow murder capitals, Washington DC and Chicago, have similar bans. One can draw a map of the US, showing the inverse relationship of the strictness of its gun laws, and levels of violence: all the way down to Vermont, with no gun laws at all, and the

lowest level of armed violence (one thirteenth that of Britain).

America's disenchantment with "gun control" is based on experience: whereas in the 1960s and 1970s armed crime rose in the face of more restrictive gun laws (in much of the US, it was illegal to possess a firearm away from the home or workplace), over the past 20 years all violent crime has dropped dramatically, in lockstep with the spread of laws allowing the carrying of concealed weapons by law-abiding citizens. Florida set this trend in 1987, and within five years the states that had followed its example showed an 8 per cent reduction in murders, 7 per cent reduction in aggravated assaults, and 5 per cent reduction in rapes. Today 40 states have such laws, and by 2004 the US Bureau of Justice reported that "firearms-related crime has plummeted".

In Britain, however, the image of violent America remains unassailably entrenched. Never mind the findings of the International Crime Victims Survey (published by the Home Office in 2003), indicating that we now suffer three times the level of violent crime committed in the United States; never mind the doubling of handgun crime in Britain over the past decade, since we banned pistols outright and confiscated all the legal ones.

We are so self-congratulatory about our officially disarmed society, and so dismissive of colonial rednecks, that we have forgotten that within living memory British citizens could buy any gun – rifle, pistol, or machinegun – without any licence. When Dr Watson walked the streets of London with a revolver in his pocket, he was a perfectly ordinary Victorian or Edwardian. Charlotte Brontë recalled that her curate father fastened his watch and pocketed his pistol every morning when he got dressed; Beatrix Potter remarked on a Yorkshire country hotel where only one of the eight or nine guests was not carrying a revolver; in 1909, policemen in Tottenham borrowed at least four pistols from passers-by (and were joined by other armed citizens) when they set off in pursuit of two anarchists unwise enough to attempt an armed robbery. We now are shocked that so many ordinary people should have been carrying guns in the street; the Edwardians were shocked rather by the idea of an armed robbery.

If armed crime in London in the years before the First World War amounted to less than 2 per cent of that we suffer today, it was not simply because society then was more stable. Edwardian Britain was rocked by a series of massive

strikes in which lives were lost and troops deployed, and suffragette incendiaries, anarchist bombers, Fenians, and the spectre of a revolutionary general strike made Britain then arguably a much more turbulent place than it is today. In that unstable society the impact of the widespread carrying of arms was not inflammatory, it was deterrent of violence.

As late as 1951, self-defence was the justification of three quarters of all applications for pistol licences. And in the years 1946-51 armed robbery, the most significant measure of gun crime, ran at less than two dozen incidents a year in London; today, in our disarmed society, we suffer as many every week.

Gun controls disarm only the law-abiding, and leave predators with a freer hand. Nearly two and a half million people now fall victim to crimes of violence in Britain every year, more than four every minute: crimes that may devastate lives. It is perhaps a privilege of those who have never had to confront violence to disparage the power to resist.

Richard Munday is editor and co-author of Guns & Violence: the Debate Before Lord Cullen

http://www.timesonline.co.uk/tol/comment/columnists/guest_contributors/article2409817.ece?Submitted=true

Appendix T

The Idenity of God

Halsbury's The Laws of England helps to explain the significance of God in the British Constitution. The Holy Bible is mentioned as being:

> presented [to the sovereign] as the most valuable thing on earth, and signifies wisdom, royal law, and the lively oracles of God;

And at the coronation the Sovereign is presented the orb which signifies:

> that the whole world is subject to the empire of Christ.

The Constitution of the United Kingdom clearly recognizes the existence of God and the Holy Scripture.

The Laws of England, 3rd ed, Lord Simonds, edVol. 7, Butterworth, London 1954 p.204
Book Seven / item 1

Appendix U

Unwritten Constitutional Principles

Chief Justice Beverley McLachlin

In an address in Wellington, New Zealand in December 2005 entitled, "Unwritten Constitutional Principles: What Is Going On?", Chief Justice Beverley McLachlin expounded upon this concept, stating:

> There exist fundamental norms of justice so basic that they form part of the legal structure of governance and must be upheld by the courts, whether or not they find expression in constitutional texts. (p.2)
>
> Unwritten constitutional principles [refer to] the ancient doctrine of natural law. Like those concepts of justice, ... these principles presuppose the existence of some kind of natural order ... derived from history, values, and the culture of the nation, viewed in its constitutional context. (p.5)

Quoting Canadian legal scholar M.D. Walters on this idea of natural law, Ms. McLachlin said:

> unwritten fundamental laws is regarded as an assertion of the supremacy of natural law, right reason or universal principles of political morality and human rights over legislation, it is part of a rich intellectual heritage that had informed common law thinking from medieval times through the English and American revolutionary ages, and into the high Victorian era of empire out of which Canada's written constitution emerged. (p.6)
>
> M.D. Walters "The Common Law Constitution in Canada" (2004), 51 U.T.L.J. 91 at 136

Ms. McLachlin continued:

> Cast in the language of religion, early natural law theories saw the manifestation of the divine in something that became the foundation of the Western world's concept of itself: human rationality. Natural law was, Thomas Aquinas wrote, "Something appointed by reason." (p.7)
>
> Summa theologiae I-II, Question 94, /First Article

Furthermore, the Chief Justice stated:

> the state ... exists as an expression of its citizens, ... it follows that its legitimacy and power must be based on the citizens' consent ... this is so whether the right is written down or not; (p.8)

> The legitimacy of the modern state ... depends on its adhesion to fundamental norms that transcend the law and executive action. This applies to all branches of state government - Parliament, the executive, and the judiciary. (p.9)

On the protection of our fundamental human rights, the Chief Justice then quoted:

> Parliaments, Executives and Judiciaries are the guarantors in their spheres of the rule of law, the promotion and protection of fundamental human rights ... based on the highest standards of honesty, probity and accountability. (p.9)
>
> Commonwealth Principles on the Accountability of and the Relationship Between the Three Branches of Government Commonwealth Secretariat et al., 2004

Speaking of genocide, Ms. McLachlin said:

> I believe the world was right, in the wake of the horrors of Nazi Germany and the Holocaust, to declare that there are certain fundamental norms that no nation should transgress. I believe that it was right to prosecute German judges ... for applying laws that sent innocent people to concentration camps and probable death ... The Universal Declaration of Human Rights in 1949 was a giant step forward ... I believe that judges have a duty to insist that the legislative and executive branches of government conform to certain establish and fundamental norms ... . (p.11)

Speaking on the need to maintain human dignity, Ms. McLachlin then quoted Benjamin L. Berger:

> Our modern faith in human rights (of which the Charter is our national manifestation) suggest that justice is not a matter of majoritarian or popular debate, but an expression of a reasoned commitment to the dignity of all human beings. (p.14)
>
> Benjamin L. Berger, "Judicial appointments and Our Changing Constitution." The Lawyers Weekly, 16 September 2005 at 3

The Chief Justice then turned to The Rule of Law:

> The rule of law signifies that all actors in our society - public and private, individual and institutional - are subject to and governed by law. The rule of law excludes arbitrary power in all its forms. It requires that the laws be known or ascertainable to citizens, and ensures that laws are applied consistently to each citizen, without favouritism ... . (p.14)

Ms. McLachlin then pointed to the foundation of our Constitution:

> Magna Carta is a fundamental text designed to provide written guarantees of fundamental principles. ... common law fleshed out and supplemented these principles .. . . (p.15)

> The Preamble to Canada's 1867 constitutional text stipulates 'a Constitution similar in principle to that of the United Kingdom', contemplating reference to unwritten constitutional norms derived from British history. ... While [courts] may interpret their written constitutions, courts are never free to ignore them. (p.19)

On the subject of unjust laws the Chief Justice was direct:

> Judges who enforce unjust laws ... lose their legitimacy. (p.23)

Beverley McLachlin, CJ, Unwritten Constitutional Principles: What is Going On? Lord Cooke Lecture, Wellington, New Zealand, 01 December 2005.
Book of Authorities, QB Moose Jaw item 1

Appendix V

Justice Michael D. Kirby

Justice Michael D. Kirby's approach to the constitution who endorsed:

> Lord Reid's rejection of the notion that an Act of Parliament could be disregarded because it was contrary to the law of God or the law of nature or of natural justice:
>
> > I do so in recognition of years of unbroken constitutional law and tradition in Australia and, beforehand, in the United Kingdom. That unbroken law and tradition has repeatedly reinforced and ultimately respected the democratic will of the people as expressed in Parliament. It has reflected political realities in our society and the distribution of power within it. I also do so in recognition of the dangers which may attend the development by judges (as distinct from the development by the people's representatives) of a doctrine of fundamental rights more potent than parliamentary legislation. Such extra-constitutional notions must be viewed with reservation not only because they lack the legitimacy that attaches to the enactments ultimately sanctioned by the people. But also because, once allowed, there is no logical limit to their ambit. They may thereby undermine a rule of law and invite the only effective substitute, viz. the rule of power.
> >
> > Michael D. Kirby. "Lord Cooke and Fundamental Rights,"
> > Auckland Conference, 4/5 April 1997, at NF: #70
> > Book of Authorities QB Moose Jaw

Appendix W

Supremacy of God

One needs only to note the extreme importance in constitutional interpretation attached to the parallel expression “the rule of law” in Manitoba Language Rights to know that this perambulatory expression cannot be ignored.

> “the rule of law” ... becomes a postulate of our own constitutional order by way of the preamble to the Constitution Act, 1982, and its implicit inclusion in the preamble to the Constitution Act, 1867 by virtue of the words "with a Constitution similar in principle to that of the United Kingdom".
>
> This Court cannot take a narrow and literal approach to constitutional interpretation. The jurisprudence of the Court evidences a willingness to supplement textual analysis with historical, contextual and purposive interpretation in order to ascertain the intent of the makers of our Constitution.
>
> The Court has in the past inferred constitutional principles from the preambles to the Constitution Acts and the general object and purpose of the Constitution.
>
> Re Manitoba Language Rights, [1985] 1 S.C.R. 721, 1985 CanLII 33 (S.C.C.)
> Book One, item 1, para 63,65,66

Exhibit X

Notice

Constitutional Questions Act

Wednesday, 20 April 2005

The Honourable Irwin Cotler
Attorney General of Canada
House of Commons
Ottawa, Ontario K1A 0A6

The Honourable Frank Quennell, Q.C
Attorney General of Saskatchewan
Legislative Building
Regina, Saskatchewan S4S 0B3

Judge David Orr
Saskatchewan Provincial Court
Rm 211 - 110 Ominica St
Moose Jaw, Saskatchewan S6H 6V2

Fred Dehm, Q.C
Saskatchewan Crown Prosecutor
224 - 4th Ave South Rm800
Saskatoon, Saskatchewan S7K 2H6

Scott R. Spencer, Senior Counsel
Department of Justice
10th Floor, 123 Second Ave S.
Saskatoon, Saskatchewan S7K 7E6

Brian Henderson,
Saskatchewan Crown Prosecutor
Rm 221 - 110 Ominica Street W
Moose Jaw, Saskatchewan S6H 6V2

Dear Honourable Sirs,

Re: Craik RCMP File # 2003 - 866
Constitutional Questions Act / Charter Challenge

As required by the Constitutional Questions Act, being Chapter C-29 of The Revised Statutes of Saskatchewan 1978 ... and 2000, c.I-2.01., and in compliance with Judge Orr's instructions of Tuesday, 04 January 2005, as amended by the Court on Tuesday, 01 March 2005, I hereby serve notice to all the aforementioned parties that I will be in Saskatchewan Provincial Court in Craik, Saskatchewan, on Tuesday, 04 October 2005, to show why I am legally entitled to possess the shotgun which the the RCMP seized from me and wants to destroy. In so doing I will challenge the constitutional validity of the Firearms Act, and the corresponding sections of the Criminal Code of Canada under which the RCMP seized my shotgun.

The Firearms Act of 1995 and the corresponding sections of the Criminal Code of Canada, Section 91(1), 91(2), and 117.03 violate the Canadian Charter of Rights and Freedoms, Sections 7, our Right to "Life, Liberty and Security of Person," and Section 26, "this Charter ... shall not be construed as denying the existence of any other rights or freedoms that exist in Canada," specifically, the Right to

have “armes for their defense.”

Thank you for your continued attention to this matter.

Sincerely,

Edward B. Hudson, DVM, MS
Secretary

Encl.: Revised Appendix A / Particulars of the Points to be Argued

CC: Lt Governor Lynda Haverstock
Dept Prime Minister Anne McLellan
Premier Lorne Calvert
Don Morgan, Justice Critic
Prime Minister Paul Martin
Garry Breitkreuz, MP
Brad Wall, Leader Opposition

Canadian Unregistered Firearms Owners Association
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Saskatchewan S7K 4H2
1-306-242-2379 1-306-249-2359 fax
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Revised Appendix A

20 April 2005

Particulars of the Points to be Argued

The Firearms Act of 1995 violates our Right to have “armes for their defense” and our Right of “security of the person.”

the Firearms Act:
Section 4. The purpose of this Act is
(a) to provide, notably by sections 5 to 16 and 54 to 73, for the issuance of
(i) licences, registration certificates and authorizations under which persons may possess firearms in circumstances that would otherwise constitute an offence under subsection 91(1), 92(1), 93(1) or 95(1) of the Criminal Code,
Section 112. (1) Subject to subsections (2) and (3), every person commits an offence who, not having previously committed an offence under this subsection or subsection 91(1) or 92(1) of the Criminal Code, possesses a firearm that is neither a prohibited firearm nor a restricted firearm without being the holder of a registration certificate for the firearm.

I. “Armes for their defense”

Canadian Charter of Rights and Freedoms:
Section 26.
“The guarantee in this Charter of certain rights and freedoms shall not be construed as denying the existence of any other rights or freedoms that exist in Canada.”

The Right to “armes for their defense” is guaranteed by the English Declaration of Rights of 1689, the Canadian Bill of Rights, the Canadian Charter of Rights and Freedoms.

The English Declaration of Rights of 1689 provides for citizens to have “armes for their defense.”

The Canadian Bill of Rights and the Canadian Charter of Rights and Freedoms brought the Right of “armes for their defense” into Canadian law.

Canadian Bill of Rights:

Section 5. (1) Nothing in Part I shall be construed to abrogate or abridge any human right or fundamental freedom not enumerated therein that may have existed in Canada at the commencement of this Act.

II. “Security of the person”

Canadian Charter of Rights and Freedoms:
Section 7.
“Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.”

Appendix Y

Overview of English History

Year	King	Event	Contemporary	Legacy
2800 BC		Immigration of Celts Druids Stonehenge		
55 B.C.	Julius Caesar	Roman Invasion		
		Queen Boudicca, 60 A.D. rebellion against Roman pillage		
		Hadrian's Wall, 122 A.D. "to separate Romans from Barbarians"		
410 A.D.	Emperor Honorius	Britons “to look to their own defense”		
450 A.D.	Anglo-Saxon Invasion (Germanic peoples, the Angles, the Saxons, and the Jutes)			
516 A.D.		Battle of Mount Badon King Arthur		
597 A.D.	St. Augustine	established Catholic Church first archbishop of Canterbury		
600 A.D.		Wessex law early militia		
625 A.D.	Raedwald			
675 A.D		poem “Beowulf”		

House of Wessex (Anglo-Saxon)

802-839:	Egbert	
839-855:	Aethelwulf	
855-860:	Aethelbald	
860-866:	Aethelbert	
866-871:	Aethelred	Danish Invasions
871-899:	Alfred, the Great	

national militia Danelagh Danegeld berserk

899-925: Edward, the Elder
925-940: Athelstan
940-946: Edmund, the Magnificent
946-955: Eadred
955-959: Eadwig (Edwy), All-Fair
959-975: Edgar, the Peaceable
975-978: Edward, the Martyr
978-1016: Aethelred, the Unready
1016: Edmund, Ironside

Danish Line
1014: Svein, Forkbeard
1016-1035: Canute, the Great
1035-1040: Harald, Harefoot
1040-1042: Hardicanute

House of Wessex, Restored
1042-1066: Edward, the Confessor
1066: Harold II

Battle of Hastings 14 October 1066

Norman Line
1066-1087: William I, the Conqueror

oath of "loyalty against all men"

1087-1100: William II
1100-1135: Henry I
1135-1154: Stephen

Plantagenet, Angevin Line
1154-1189: Henry II

Assize of Arms 1181

"every able bodied freeman ... to provide weapons ...
to serve the king at his own expense when summoned."

Thomas a Becket

1189-1199: Richard I the Lionheart

Third Crusade

1199-1216: King John

Magna Carta 1215

1216-1272: Henry III

Assize of Arms 1253

1272-1307: Edward I, Longshanks

Assize of Arms 1285

Braveheart

1307-1327: Edward II

1327-1377: Edward III

Statute of Northampton 1328

100 Years War began

Canterbury Tales

1377-1399: Richard II

Peasants' Revolt

Robin Hood

Game Act 1389

first restrictions on firearms ownership - property qualification

Plantagenet, Lancastrian Line

Convention Parliament, 1399

1399-1413: Henry IV

1413-1422: Henry V

Agincourt 1415

"Once more into the Breach"

1422-1461: Henry VI

Wars of the Roses begins

Siege of Orleans

Joan of Arc

Plantagenet, Yorkist Line

1461-1470: Edward IV

Hundred Years' War ends

1470-1471: Henry VI

1471-1483: Edward IV

1483: Edward V

1483-1485: Richard III

Wars of the Roses ends

Bosworth Field, 1485

House of Tudor

1485-1509: Henry VII

Game Act 1485

forbid hunting deer with disguises & at night

1509-1547: Henry VIII

Catherine of Aragon / Anne Boleyn

Church of England

Martin Luther 1517 Reformation Lutheran Church

John Calvin 1533 Presbyterianism

1547-1553: Edward VI

rise of Protestantism

influx of “continental heretics”

1553: Lady Jane Grey

1553-1558: “Bloody Mary” I

reestablished Catholicism

burning at the stake

1558-1603: Elizabeth I

Marlowe Shakespeare Walter Raleigh Francis Drake

army to aid French Huguenots

(French Protestants)

Spanish Armada 1585

Raleigh Charter 1585

House of Stuart

1603-1625: James I

Catholic dissent:

Guy Fawkes

Gunpowder Plot 05 November 1605

Game Acts of 1604, 1605, 1609

Jamestown in Virginia, 1609

King James Bible 1611

1625-1649: Charles I

married a devoutly French Catholic princess
Puritans to America, 1620
Petition of Rights, 1628
Civil War, 1642-1649
monarchist Cavaliers vs Parliament (Roundheads, Puritans)
executed for treason

The Commonwealth
1649-1658: Oliver Cromwell
1658-1659: Richard Cromwell

Convention Parliament, 1660

House of Stuart, Restored
1660-1685: Charles II
Hudson's Bay Charter 1670
Game Act of 1671

1685-1688: James II
attempted to force Catholicism on England;
forced to flee

1689:
Convention Parliament, 1689
English Declaration of Rights 1689
"Armes for their Defense"

House of Orange and Stuart
1689-1702: William III, Mary II
War of the Grand Alliance, 1689–97
Battle of the Boyne, 1690
Act of Settlement, 1701

House of Stuart
1702-1714: Anne
War of the Spanish Succession, 1702–1713
Game Act of 1706

House of Brunswick, Hanover Line
1714-1727: George I
1727-1760: George II

War of the Austrian Succession, 1740 - 1748

1760-1820: George III

The Seven Years War, 1754 - 1763

Royal Proclamation 1763

William Blackstone, Commentaries on the Laws of England 1765

British confiscation of firearms at Lexington and Concord, 18 April 1775

Revolutionary War 1775 - 1781

Constitution Act 1791

War of 1812, 1812 - 1815

1820-1830: George IV

1830-1837: William IV

1837-1901: Victoria

British North America Act 1867

Gun License Act,1870

House of Saxe-Coburg-Gotha

1901-1910: Edward VII

Pistols Act 1903

House of Windsor

1910-1936: George V

Firearms Act 1920

1936: Edward VIII

1936-1952: George VI

Firearms Act, 1937

1952- Elizabeth II

Prevention of Crime Act, 1953

Firearms Act 1968

Firearms Act 1988

Firearms Act 1997

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   The King versus George Dewhurst and Others, John Macdonell, ed Reports of State Trials, new series, vol I pp 529-608 *(pp 167)

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8. Charter of Massachusetts Bay - 1629

9. Charter of Maryland - 1632

10. Charter of Carolina - 1663

11. Royal Charter of the Hudson's Bay Company - 1670

12. Charter of Massachusetts Bay - 1691

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List of Affidavits

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1. Edward B. Hudson

2. Jack Wilson

3. William Floyd

4. Kingsley Beattie

5. Randy Schmidt

6. Yvon Dionne

7. Pierre Lemieux

8. Dr. Joyce Lee Malcolm

9. Dr. Gary Mauser

Affidavits
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1. Dr. Joe Gingrich

2. James Turnbull

3. Larry Neufeld