# CANADIAN SHOOTING SPORTS ASSOCIATION / CANADIAN INSTITUTE FOR LEGISLATIVE ACTION

## TEAM CSSA E-NEWS – March 11, 2016

### COMMENTARY – CANADIAN SELF-DEFENCE LAW: THREE THINGS YOU ABSOLUTELY MUST KNOW

Self-defence in Canada is commonly misunderstood. Many people, including our mainstream media, believe Canadians have no right to defend themselves, no matter the circumstances.

They are wrong. The defence of person is the oldest natural right, a right that all living creatures possess. Virtually everyone, even misguided cerebral elites that believe humans only have the right to be victims, believe this obvious truth.

Here's an example: Grab a squirrel with your bare hand. Your friends will tell you that you are an idiot – of course the squirrel is going to bite you – and you deserve it – because the squirrel is merely defending itself. DISCLAIMER: Kids, don't try this at home!

Need another example? Try messing with a bear cub and watch what happens next. Will anyone cast recrimination on the momma bear? Nope, protecting her babies is what she does and once again, you are an idiot and completely to blame for your own stupidity. Her momma-bear right to defend herself and her cubs is absolutely proper, blameless and supersedes any foolishness written by people.

We all know these things to be true. Should they apply less to people? There are those Darwinian humans that self-righteously expound such ridiculous thought, believing themselves to be morally superior in their victimization. Most of us ignore these fools and go about our lives, content that if need dictates, we will rise in the defence of ourselves and those whose care we are responsible for.

Importantly, as a society we openly recognize this fact and provide defensive tools to those who may need protection as they carry out the state's business, such as our police. (Remember this next time someone says handguns were only made to kill people. They were not. They were made to defend people.)

So without question, we have a natural right to defend our fragile bodies, and those of our loved ones too. If need arises, we will intuitively and unquestionably do so regardless of what statutes say. But what does it say?

Here then, are the three things you absolutely must know about self-defence laws in Canada.

Number One: Defending yourself, contrary to popular belief, is NOT against Canadian law. The Criminal Code of Canada very specifically allows self-defence and defence of property in Sections 34 and 35.

(http://laws-lois.justice.gc.ca/eng/acts/C-46/page-6.html#h-9)

Number Two: Should you find yourself in the unfortunate position where you must defend yourself with deadly force, you will be arrested and charged with a crime. Crown prosecutors seemingly don't like Canadians doing what is required to stay alive so you absolutely will go to trial on whatever charges are laid against you.

Number Three: Unless you've done something terribly wrong, the odds of you being convicted are on your side. The CSSA has dealt with many of these types of cases over the years, and in only one case was the individual convicted. To re-cap:

- Yes, you will be charged with a very serious crime.
- Yes, this will be the most stressful time of your life.
- Yes, this entire process will cost you a lot of money.
- However, at the end of it all, justice will usually prevail and you will not go to prison. More importantly, you and your loved ones will still be here.

You absolutely must understand the law and your responsibility under it once you engage the individual or individuals attempting to do harm to you and/or your loved ones.

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There are things you cannot do or you will certainly go to prison. Your use of force must be "reasonable" in the totality of the circumstances and that reasonableness will be decided by a judge months or even years after the fact.

One high-profile case you've likely heard of is that of Ian Thomson from Port Colborne, Ontario. Multiple assailants lobbed Molotov cocktails at Thomson's home in an attempt to burn it to the ground with Thomson inside.

Thomson, a firearms instructor, ran to his gun safe and pulled out a handgun. He loaded it and fired a couple of warning shots over the heads of the criminals intent on murdering him and, like the cowards they are, they ran for their lives.

Police arrived some time later after the fires were out and promptly charged Mr. Thomson with unsafe storage of a firearm and pointing a firearm. They eventually dropped the charge of pointing a firearm when they admitted they could not prove he pointed his gun at anyone.

The Crown prosecutor in this case, however, was so adamant that Thomson be convicted of something he attempted to convince the judge that Thomson's gun safe was "too close" to his bedroom because of how fast Thomson was able to retrieve his firearm and defend his life. That Crown prosecutor would, presumably, prefer the burned dead body of a victim than a live defendant who did everything he could to stay alive. As bizarre as that sounds, the shameful ordeal the Crown put Ian Thomson through lasted over two and a half years.

Here, from the Criminal Code of Canada Section 34, is the self-defence provision in view:

34 (1) A person is not guilty of an offence if

- (a) they believe on reasonable grounds that force is being used against them or another person or that a threat of force is being made against them or another person;
- (b) the act that constitutes the offence is committed for the purpose of defending or protecting themselves or the other person from that use or threat of force; and
- (c) the act committed is reasonable in the circumstances.

As you can see, the law is very clear. Canadians are NOT restricted from defending themselves. In fact, the law is quite clearly on their side even if police and Crown prosecutors, like the ones in Ian Thomson's case, are not.

It is also important to note that in Ian Thomson's case he was never charged under this section of law. He was charged with the only thing the vindictive Crown thought they could make stick: unsafe storage of firearms. Thankfully they failed in their persecution.

One reason Thomson was not charged with anything more severe may be Section 34 (2) of the Criminal Code of Canada, which speaks to what a judge must consider when a person does use force to defend themselves.

34 (2) In determining whether the act committed is reasonable in the circumstances, the court shall consider the relevant circumstances of the person, the other parties and the act, including, but not limited to, the following factors:

- (a) the nature of the force or threat;

(b) the extent to which the use of force was imminent and whether there were other means available to respond to the potential use of force;

- (c) the person's role in the incident;
- (d) whether any party to the incident used or threatened to use a weapon;
- (e) the size, age, gender and physical capabilities of the parties to the incident;
- (f) the nature, duration and history of any relationship between the parties to the incident, including any prior use or threat of force and the nature of that force or threat;
- (f.1) any history of interaction or communication between the parties to the incident;
- (g) the nature and proportionality of the person's response to the use or threat of force; and
- (h) whether the act committed was in response to a use or threat of force that the person knew was lawful.

Given the assailants were trying to burn down his home with him inside of it, Ian Thomson's actions were entirely "reasonable" and defensible.

There are rare cases where no charges are laid but they are the exception, not the rule.

When Dievert's Jewellers in Port Alberni was robbed at gunpoint, the owner, Dennis Galloway, retrieved his legally-owned and stored handgun from the store's safe. He then shot one armed robber. The wounded thief's accomplice fled for his life and was never apprehended.

The RCMP recommended Dennis Galloway be prosecuted for unsafe storage and careless use of a firearm. Thankfully, in this case, the Crown Prosecutor had more common sense than that, and Dennis never faced any criminal charges.

That case ended precisely the way it should have: with the actual criminals charged with crimes, and the innocent hero who defended himself and his wife left unmolested by the legal system.

His case is the exception, however, and that is important to understand. In almost every conceivable case, no matter how right you are, you will go to trial and tell your story to a judge.

"Better to be judged by twelve than buried by six" as the old saying goes. However, the responsibility we accept as lawful firearms owners includes the responsibility for every single projectile that leaves the barrel of our firearms. This is fitting and proper. Our community accepts that responsibility, and we proudly rise to it every day.

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## GO FISHING, GO TO JAIL – THERE'S SOMETHING'S FISHY ABOUT BILL C-246

(Canadian Sport fishing Industry Association | News Release | March 7, 2016)

To contact your MP, MPP or MLA **click here**.

### Peterborough, Ont: Canadian families who fish together will do time together if Bill C-246 becomes law.

The 'Modernizing Animal Protections Act" was introduced last week by Liberal MP Nathaniel Erskine-Smith of Toronto. It is being promoted as legislation to ban of the importation of shark fins and outlaw the practice of shark finning in Canadian waters. But that is only the tip of the fin.

An activist coalition of Canadian and U.S. animal rights organizations with a decades-long history of sustained attacks on anglers and farmers quickly supported the private member's bill. Led by the International Fund for Animal Welfare of Yarmouth, Massachusetts and the Toronto-based Animal Alliance of Canada, these groups have once again come out in strong support of federal legislation which threatens a criminal charge, up to a $10,000 fine and five years jail time for anglers who harvest a few fish for dinner.

Provisions in Bill C-246 clearly make it possible for someone who catches a fish to face criminal prosecution for cruelty to animals. Even the act of baiting a hook with a worm would be considered an act of cruelty according to the Bill.

Specifically, Section 182.1.1 states that:

182.1 (1) Everyone commits an offence who, willfully or recklessly, (b) kills an animal or, being the owner, permits an animal to be killed, brutally or viciously, regardless of whether the animal dies immediately;

This section poses the same threat as the seven previous iterations of similar bills. According to exhaustive legal opinions, for the first time in Canadian history this section would make it an offence to kill an animal brutally or viciously – without defining those terms – and does not exempt from this offence normal hunting and fishing activities. Hunting and fishing necessarily involve the killing of animals. Animal rights groups consistently attempt to portray these traditional Canadian heritage activities as inherently brutal and vicious. If Bill C-246 becomes law, this section will be used by animal rights activists who will employ provisions of the Criminal Code to bring private prosecutions to harass lawful anglers and hunters.

"Once again we see the timeworn tactic by these MP's and groups of fronting a façade which appears to promote a seemingly reasonable solution to an animal cruelty issue, while concealing the true intention of the legislation," states Phil Morlock, Government Affairs Chair of the Canadian Sportfishing Industry Association. "The implications of this Bill are chilling. It is a nuclear strike against our outdoor heritage activities and threatens anyone who just wants to take their kids fishing."

In a classic example of the relentless 'under the radar' attacks on the eight million Canadians who enjoy fishing, this Bill copies the same contentious phrasing that directly threatens anglers and which appeared in seven previous government Bills from 1999 – 2008. That legislation had strong support from M.P. Mark Holland who is now Parliamentary Secretary to Minister for Democratic Institutions, Maryam Monsef MP for Peterborough-Kawartha. Mr. Holland was quoted in the November 30, 2015 issue of The Hill Times newspaper as once again drafting similar 'animal cruelty' legislation.

"We're urging all Canadian anglers who enjoy the freedom of fishing with their families without fear of prosecution to contact their Member of Parliament to express their opposition to Bill C-246," added Morlock.

Anglers can access the contact information of their Member of Parliament by visiting www.keepcanadafishing.com.

See the news release: http://www.keepcanadafishing.com/go-fishing-go-to-jail-theres-somethings-fishy-about-bill-c-246/

The Canadian Sportfishing Industry Association (CSIA) represents the manufacturers, distributors, retailers and sales agencies which serve the 8 million Canadians who spend over $8 billion dollars annually enjoying the outdoor heritage activity of recreational fishing.

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## **THE TRUTH ABOUT AUSTRALIA'S GUN CONTROL EXPERIMENT** (By David Leyonhjelm | davidleyonhjelm.com.au)

Australians pride themselves on 'telling it like it is', but when it comes to gun laws, straight-shooting often takes a back seat to a determined effort at silencing debate.

In 1996, Australia passed some of the most restrictive gun laws in the western world. They included bans on self-loading rifles and self-loading and pump-action shotguns, universal gun registration and a taxpayer funded gun confiscation program costing over half a billion dollars. The ongoing costs of running the firearms registration systems are unknown but have been estimated at around $28 million per year, or $75,000 per day. That's more than what the average Australian earns in a year.

For that price tag, any accountable democracy should expect to have a decent debate about its efficacy. But in Australia, debate about guns has been all but silenced. Anti-gun zealots, within and outside the halls of parliament, smugly try to convince the rest of the world that Australia's model of firearms management has been a resounding success. "We saved lives!" they claim. "We stopped mass shootings!" they say.

To satisfy their conceit, they manipulate statistics to suit themselves and pretend that 'the science is settled'. This is an outright lie. When you look at the real facts, it becomes very obvious that the Australian experiment with gun control is nowhere near as clear-cut as the gun prohibition lobby wants the world to believe.

There is a growing body of peer-reviewed research into the impacts of Australia's 1996 gun laws. Some of it comes from anti-gun groups, some from pro-gun groups, and some from groups which have no personal connections to firearms one way or the other.

Using a range of different statistical methods and time periods, not a single one of these studies – not even the ones conducted by anti-gun affiliated researchers – has found a significant impact of the legislative changes on the pre-existing downward trend in firearm homicide. Firearm homicides were decreasing well before the laws were implemented, and the decline simply continued after the legislative changes.

This decline in Australia is not unique or unusual. At least two other Commonwealth countries (Canada and New Zealand) experienced similar or greater declines in deaths over the same time, even though those countries have far less restrictive gun laws than Australia.

The relationship between Australia's gun laws and suicides is uncertain. Again, deaths were declining well before the legislative changes. Some studies find that the downward trend accelerated after the 1996 gun laws, while others find impacts only among certain age groups. Some research finds little evidence for any change, others show displacement from firearms to other methods (such as hanging).

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Anti-gun lobbyists cherry-pick the statistics that suit them and ignore studies that do not fall into line with the story they desperately want to tell.

The fairytale they prefer is that the gun laws have 'saved 200 lives a year', a claim based on laughably poor statistical modelling which produced estimates so ridiculous that they have been dismissed by Harvard researchers as 'stretching credulity'. The scientific reality is there is no consensus whatsoever about firearm laws and suicide in Australia.

A claim you will often hear is that there have been no mass shootings since 1996, from which anti-gun lobbyists conclude that Australia's gun laws have stopped mass shootings. But this is a half-truth. The full truth is that Australia's close neighbour New Zealand – a country very similar to Australia in history, culture, and economic trends – has experienced an almost identical time period with no mass shooting events despite the ongoing widespread availability of the types of firearms Australia banned.

The absence of mass shootings in New Zealand despite having semi- automatic firearms does not seem to be a product of any pre-existing differences between the two countries. Studies taking into account the different numbers of people have found that mass shootings before 1996/1997 occurred at a comparable rate between countries. The inescapable conclusion is that something other than gun laws is likely to be driving the merciful absence of mass shooting events in both countries.

And yet, despite all the scientific evidence to the contrary, the anti-gun lobby continues to promote untruths, unchallenged. Notwithstanding the massive price tag attached to Australia's gun laws, proper debate is still not taking place. Despite the fact that other policies may be far more effective at saving lives, dissenting views about the gun laws are ridiculed and shrilly shouted down. Yes, the rest of the world can indeed learn a lesson from Australia's gun control experiment. But that lesson is really not about gun laws. It is about the dangers of allowing lobbyists, politicians and the media to prevent a rational debate.

David Leyonhjelm is an Australian politician who is a Senator for New South Wales, representing the Liberal Democratic Party.

See the story: http://davidleyonhjelm.com.au/the-truth-about-australias-gun-control-experiment/

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