

## **Gun Talk**

### **The Art of Self Defence. The right to defend yourself is a right, not a privilege.**

BC Outdoors/Hunting, Fall 2003

Gary Mauser

Tony Martin, a middle-aged farmer, was awakened one night by the sounds of burglars breaking into his isolated farmhouse in Norfolk, England. Fearing for his life, because he lived alone on his remote farm more than 30 minutes away from the nearest police station, Mr. Martin relied upon his shotgun for his safety. He fired on the burglars, killing one, and wounding a second. Sounds like a clear case of self-defence.

Tony Martin was sentenced to life in a British prison. On appeal, his sentence was later reduced to five years in prison. The government is so set against citizens using firearms to defend themselves that now it is fighting Martin's early release from prison. Even though he's been a model prisoner, government lawyers claim he represents a "threat to society." Why? Because he refuses to admit he did anything wrong in defending his life and his property. Believe it or not, the government even argues burglars need to be protected from the people they attempt to rob.

The government is not completely without a heart, however. The wounded robber was granted £5,000 (about \$12,000 Cdn) to assist him in suing Martin for damages. The robber, who has multiple convictions and has never held a steady job, claims that his injuries keep him from working.

### **Only in Britain?**

An Edmonton shop owner is currently facing criminal charges because he is alleged to have shot and wounded one of two smash-and-grab thieves who rammed a stolen SUV through the front window of his store in order to help themselves to a big-screen television.

The Edmonton police are even negotiating with the wounded robber in order to buy his testimony against the shop owner. The robber gets

a reduced sentence if he'll testify against the shopkeeper. Edmonton Police spokesman, Wes Bellmore, is reported by the Edmonton Sun as saying, "We can't have every shopkeeper in town packing a gun." He went on to say, "When it's a tradeoff between pursuing a shooting and a B&E, our priority is the firearms activity."

Over the past century, our right of self-defence in Canada has been gradually vanishing. Would handguns have been registered in the 1930s if the government trusted us? Since few Canadians own pistols, we let handguns be drastically restricted. Too many of us were willing to sacrifice our neighbors, as long as they personally were spared.

Next, businesses were disarmed. Two important changes came in with Bill C-51 in the 1970s. The RCMP quietly removed permission for anyone to register handguns at a business address, and the defence of property was dropped from the list of reasons for using force in self-defence. This didn't concern most of us, so we let the police take the shopkeepers' firearms.

### **The Next Step**

Ottawa then became bolder. Since self-defence was no longer considered legitimate, Kim Campbell in the early 1990s brought in

"safe storage" regulations, which required firearms to be unloaded and locked up when not "in use." Ammunition had to be stored separately. Protecting your family didn't count as a legitimate use.

No legal leeway is given to anyone who uses a firearm in self-defence. If you ever do have to use a firearm to protect yourself, or your family, charges will almost certainly be laid. This means that you have to hire a lawyer and go to court to defend yourself. Who is the criminal here?

It gets worse. Since 1998, the Department of Justice has been working to gut the sections of the Criminal Code that permit us to use violence to defend ourselves or our property. The bureaucrats are supported in this effort by the Law Commission of Canada and by the Canadian Heritage's Human Rights program. The Ottawa elite believes that society has now progressed beyond the need for armed self-defence. Maybe in their part of town, but not for the rest of us.

Why is this happening? The bureaucratic mantra is, fewer guns mean less crime. The government doesn't trust us, any of us.

Parliament is now considering the Law Commission's proposal to modernize the self defence law in Canada. These dreamers plan to remove provisions in the criminal code that allow people to use violence to defend themselves. Of course, the politicians have private body-guards for protection. We have only ourselves.

This is wrong. The right to defend oneself, one's family, and one's property is fundamental. Everyone has this right. It is part of English common law. We had the right to defend ourselves before Canada even existed.

Despite English common law, anyone who defends the right of self-defence is accused of being a Yankee cowboy. This is bogus. We don't have to look to the United States for direction. We can look to our own history. As English citizens, Canadians have long had the right and the responsibility to use firearms in defence of ourselves, our families, and our property.

### **Blackstone's View**

While current British and Canadian politicians have forgotten their own history, Sir William Blackstone, Britain's eminent jurist, summed up the prevailing view of rights in his 18th-Century commentaries on the laws of England.

In Blackstone's view, personal security is one of the three absolute rights. These are: the right to individual liberty, including freedom of thought; the right to personal security, and the right to own and enjoy property. He saw these rights as the birthright of Englishmen, and pointed out they were enshrined in the 1688 English Bill of Rights.

As Blackstone saw it, the right to personal security includes an undiluted right to self-defence. This means that we have the right to kill anyone discovered in our home or on our land after dark. This may sound bloodthirsty, but the alternative is to grant strangers the right to enter our homes without our permission. Was Tony Martin

obliged to flee from his own house? Should Tony Martin have allowed the burglars to take what they wanted?

### **Book It**

Now we know why history is not taught in Canadian schools. Joyce Lee Malcolm, a history professor at Bentley College, documents beautifully the history of the right to bear arms in England. In her most recent book, Guns and Violence: The English Experience, published by Harvard Press, she shows how the right of Englishmen to “have arms for their defence” has been progressively eroded during the Twentieth Century by a government that blindly insists upon a monopoly of force. This violates common sense. From time immemorial, government has depended upon the public to keep order. But that requires arming the people. Now the government insists on a monopoly of force, “only the police should have guns,” and then cannot possibly protect everyone. No society is devoid of criminal violence; at no time in human history have humans been able to say they have no risk of being attacked.

Canadian politicians, like their English cousins, don’t think we should have the right to defend ourselves. Since the police can’t always be there to protect us, the government has traded our individual right to personal safety for “public order.” Public order apparently requires sacrificing the weakest among us. We seem to accept this as long as the government is generous enough with sympathy for the victims. The government merely says it’s “not in the public interest” to allow citizens to have firearms for self-protection.

We should not let our right of self-defence slip away. The only way to stop the government is to fight back. Start by writing to your Member of Parliament. MPs need to learn what we believe. National surveys have repeatedly shown that very large majorities of Canadians support using firearms in self-defence.

Be sure to send copies to Garry Breitkreuz, MP, your Premier, and to your local newspaper. Remember, no postage is needed to write a federal MP. Be polite, be brief, and be direct. Tell your MP not to remove your right of self-defence from the Criminal Code.

File: self defMauser503V5

*Professor Gary Mauser is currently gathering material for a proposed book on real Canadian experiences surrounding the use of firearms for defence purposes and the outcome of the incident via the justice system. He can be contacted at [mauser@sfu.ca](mailto:mauser@sfu.ca).*