

Prohibition and gun control

David Leyonhjelm

I wonder if anyone can tell me who said this:

“We will find any means we can to further restrict them because I hate guns. I don’t think people should have guns, unless they are police, or in the military or security industry. Ordinary citizens should not have weapons. We do not want the American disease imported into Australia.”

It was John Howard, the former Prime Minister. And my guess is he probably spoke for a majority of Australians. Quite likely a fair few people here too.

There were three assumptions implicit in his comment.

First, he assumed strict gun laws lead to gun control, which in turn leads to reduced levels of violence.

Second, he assumed the so-called “American gun culture” is bad and something to be avoided.

Third, he assumed it was perfectly OK for the government to have all the guns and for ordinary people to have none.

I’ll focus on the first two – that strict gun laws lead to a safer society, and the American gun culture. The third is a different topic and I can’t deal with it adequately in 10 minutes.

If I said to you that neither of these two assumptions is true, a lot of you would instinctively disagree. Such is the nature of the gun debate.

But it is a fact that gun laws do not control guns. And even if they did it wouldn’t reduce crime.

And the so-called American gun culture is derived from movies and TV, with a bit of media imagination thrown in. The reality is altogether different.

I recognise some people are reluctant to reconsider their opinion of guns. Even liberal minded people on things like drugs, censorship and prostitution tend to have a blind spot on guns.

Some people actually fear guns, like some fear heights or spiders. The term for fear of guns is hoplophobia. People who fear guns are not open to rational persuasion, just as some people can never relax when there’s a spider on the wall no matter how much scientific data is offered explaining how spiders can’t jump.

I believe John Howard is a hoplophobe (amongst other things).

In 1996 following the Port Arthur massacre, he forced the States to sign up to an agreement to make major changes to their gun laws. More changes followed in 2002 after the murder of two people at Monash University.

Unless you were a sporting shooter or hunter, or a farmer, you probably wouldn't be familiar with the detail; you'll have simply heard about "tough gun laws". You quite likely assumed tough gun laws sounded good and never thought further about it.

Prohibition can be a bit like that. Unless you are directly affected, you tend not to notice when others lose a bit of their liberty.

So let me tell you a little bit about the Howard gun laws.

They banned civilians from owning self-loading (ie semi-automatic) rifles and shotguns, plus pump action shotguns.

They restricted magazine capacity on everything else, introduced individual registration of rifles and shotguns, and imposed a range of other restrictions on firearm acquisition.

In 2002/03 pistols with short barrels were prohibited, plus calibres greater than .38 or magazines holding more than 10 rounds. Additional licensing obligations were imposed too.

A special tax was introduced via the Medicare levy to fund a confiscation with compensation scheme, euphemistically called a "buy-back" (you can't buy back something that was never yours to start with, but no matter.) The cost was at least \$700 million plus State costs, with more than 700,000 firearms surrendered.

For those with an interest in firearms, like me, the new laws were profoundly coercive.

First, you could be liable for 15 years in prison simply by doing nothing.

That's what an Australian Rip van Winkle would face if he fell asleep in 1996 with a totally legal semi-automatic rifle, and awoke in 1998 owning an unregistered prohibited weapon.

The shooting sports had to abandon or restructure popular disciplines. Rifle matches were forced to make do with rifles introduced more than 50 years ago, because everything since then is semi-automatic.

In some disciplines pistol shooters became internationally uncompetitive because of the restrictions on calibres or magazine capacity. As far as I know, none of the restrictions would have made any difference to the Monash murderer.

Clay target shooters who can prove a double barrel shotgun is too big or heavy are permitted to own a self-loading shotgun, but they can't have a spare in case the first one breaks. It's like forcing a tennis player to make do with a single tennis racket.

Farmers can own a single semi-automatic rifle for destroying vermin such as rabbits, foxes and pigs, or injured livestock, but can't own a spare one. And their employees, family members or contractors can't have even one such rifle.

A mass of petty legal traps were created relating to things such as having your licence with you, storage and transport of firearms and ammunition, and licence conditions including minimum attendance at club meetings.

Even firearms collectors must belong to an approved collectors club and attend at least two meetings a year.

Any police officer can look up the police computer and see who legally owns guns.

When the police come to my house, they are always in pairs and one stands back with a hand near their pistol, just in case I burst out the door and spray them with bullets. Of course they don't do that when they visit one of my friends. He also has a gun but he hasn't bothered with a licence, so they assume he can't spray them with bullets.

The safe in which I store my guns in my home is subject to inspection at virtually any time. And if I am found with so much as a single 22 bullet not locked up, I'm likely to lose my licence.

In fact, it is very easy to break the law if you are a firearm owner. In some cases regulations were written to make compliance difficult in the hope it would discourage licence applications.

Prosecution, even without conviction, usually results in suspension of your firearms licence and seizure of your guns.

Apprehended violence orders, often taken out frivolously by angry wives or husbands in divorce or custody disputes, always result in the loss of licence and guns.

The sheer bastardry of the gun laws is one reason why gun owners never "get over" or even "get used to" the gun laws.

But that only affects you if you are a gun owner.

More relevant to everyone is the fact that all remaining rights to own a gun for self-defence were eliminated. For all practical purposes, and there are no exceptions in NSW, it is now impossible to own any kind of gun for protection anywhere, including in the home.

Most people never felt the need to arm themselves for self-defence. But you used to be able to make that choice yourself. It was once OK for people faced with a realistic threat of violence to get a permit to carry a pistol. The police would often recommend it.

Wives pursued by violent ex-husbands, celebrities hounded by crazed fans, and of course jewellers and owners of gun shops, were among them. You didn't hear about it much, but I knew several people who had permits.

These days, politicians are protected by armed guards at taxpayers expense and the well-heeled hire armed security guards. Everyone else takes his or her chances.

In fact, you can't carry a weapon of any kind. Even non-lethal alternatives like pepper sprays, mace and Tasers are banned. You are not allowed to carry a pocket-knife. Bullet-proof body armour is banned too.

In theory, the right of self-defence hasn't been lost. Self-defence is still available as a defence and juries consistently refuse to convict those charged with serious offences whenever self-defence is established.

But it is no longer a practical option for a lot of people. Realistically, only the young, the strong and the agile have options. I often hear young fit men scoff at the idea that they need a weapon for self-defence. But they seem to forget about their grandmother, mother or sister.

If your ex-husband has bashed you half a dozen times, breached numerous restraining orders, made threats to come and finish you off and knows where you live, you still cannot legally arm yourself. If you do, you'll be the one that gets arrested.

Your vulnerability is no less in your own home except for the fact that you are still allowed to use whatever is at hand, and kitchen knives and screwdrivers are so far still legal.

And don't believe that old story about criminals being more likely to use your own weapon against you. It's another myth. Especially if the weapon is a gun and you have practised using it.

Even if you own a gun for sport, as I do, anyone coming to do me in would have to give me 10 minutes notice for it to be any use. That's how long it would take to unlock my compulsory safe, unlock my compulsory ammunition box, load one of the guns and get it ready to use.

If you had the right to vote but there were no ballot boxes, the right would be academic. The same if you have a right to freedom of religion but the churches were all turned into museums. A right that you can't exercise is not really a right at all.

And the most practical method of self-defence, if you are prepared to learn how to use it, is a gun. Most people will never need one. But there's no doubt that if you really need to defend yourself, a shotgun is the best option at home. And if you need to carry something around, a pistol is best.

Guns can only cause harm if someone pulls the trigger, just as petrol only becomes a Molotov cocktail or cameras take paedophile pictures if someone chooses to use them in that way. Simply owning a gun is victimless.

Some claim potential harm is the key factor, but the onus is on the proponents of control to prove the benefit exceeds the coercive impact.

The potential harm of internet access may include child pornography, but those who would restrict internet access are expected to make the case.

Even if censorship of the internet were to save a child from paedophilia, most of us would say it is not sufficient justification. And yet time and again I hear people say, if banning guns saves a life, that is sufficient.

But prohibition cannot make something disappear or demand to vanish in any case. The assumption that strict gun laws lead to gun control is no more valid than the assumption that strict drugs laws lead to the control of drugs.

In spite of the fond hopes of those who, like John Howard, wanted the tough gun laws to make guns and violent crime disappear, they failed to have any such effect.

Since 1999 there have been about 8 or 10 academic studies of the impact of the Howard gun laws. All used Australian Bureau of Statistics cause of death figures. Some were published in peer-reviewed journals.

Probably the most authoritative was a paper by two female researchers, Baker and McPhedran. It was peer reviewed and published in a credible journal.

It showed no effect of the gun laws. Based on the paper, the head of the NSW Bureau of Crime Statistics and Research, Dr Don Weatherburn, said:

“I too strongly supported the introduction of tougher gun laws after the Port Arthur massacre.

The fact is, however, that the introduction of those laws did not result in any acceleration of the downward trend in gun homicide. They may have reduced the risk of mass shootings but we cannot be sure because no one has done the rigorous statistical work required to verify this possibility.

It is always unpleasant to acknowledge facts that are inconsistent with your own point of view. But I thought that was what distinguished science from popular prejudice.”

A more recent publication (Lee and Suardi) is probably the most statistically exhaustive. It applied a whole battery of statistical tests to homicide and suicide data for the entire period 1915 to 2004. What they were looking for was a break point in the long term trend that could be attributed to the new laws. They couldn't find one. What they concluded was:

“... there is little evidence to suggest that [the National Firearms Agreement] had any significant effects on firearm homicides and suicides. In addition, there also does not appear to be any substitution effects – that reduced access to firearms may have led those bent on committing homicide or suicide to use alternative methods.”

Of course, some anti-gun people have disagreed. One of them is Simon Chapman, well known for his anti smoking lobbying. He pointed to more than a decade free of fatal mass shootings as evidence of the impact.

But mass shootings are rare and countries that did not introduce similar gun laws, such as New Zealand, also had no mass shootings. The Childers backpacker murders also showed that mass murder does not necessarily require firearms.

In fact, the worst mass murder prior to Port Arthur was a deliberately lit fire at the Whisky a Go Go disco in Brisbane.

It should not really surprise anyone that the gun laws had no impact. It has been no different anywhere else in the world. There is no country in the world where strict gun control laws have led to a decline in violent crime. Australia was never likely to be an exception.

Time prevents me from providing detail, but here are a few examples.

Malaysia has one of the strictest gun control laws in the world including the death penalty for illegal possession of a firearm. That has not stopped criminals from obtaining or using firearms in crime, or of engaging in shoot-outs with police.

Britain banned pistols in 1997 following the Dunblane tragedy. In the following two years the use of pistols in crime rose by 40 percent. In the four years from 1997 to 2001 the rate of violent crime more than doubled. The chances of being mugged in London are now six times greater than in New York.

In Jamaica, in 1974 legislation was introduced banning the private ownership of firearms and ammunition. The Prime Minister Michael Manley told the country, *“There is no place in this society for the gun, now or ever.”*

The sentence for almost any firearms crime was life imprisonment. There was no bail for those charged.

The murder rate in 1973 was 11 per 100,000. It soon rose to 30 and peaked at 40 per 100,000 in 1980.

In May 2007 the World Bank issued a report which said, *“Murder rates in the Caribbean (it was referring to Jamaica) – at 30 per 100,000 population annually – are higher than for any other region of the world and assault rates, at least based on assaults reported to police, are also significantly above the world average.”*

The Republic of Ireland banned virtually all firearms in 1973, requiring their surrender within just three days, based on concerns about the IRA. The following year the number of murders doubled and stayed at that level for the next 20 years. Other violent crimes increased as well.

The ban was dropped in 2005 but guess what, the Irish Government is once again talking about banning pistols.

In the US, Washington DC has one of the worst murder rates in the country. But the murder rate was declining up to 1976 when a blanket ban on handguns and ready to use long arms was introduced.

Between 1976 and 1991 the murder rate rose 200% while the overall US rate rose only 9%. This ban was recently found unconstitutional by the US Supreme Court.

In October 2003 the US Centre for Disease Control released a major study on gun control laws in the US. The study reviewed 51 published studies on eight different types of gun laws dating back to the 1970s. It covered firearms bans, ammunition bans, waiting periods, background checks, gun registration, gun owner licensing, right to carry laws, child access-prevention laws, “zero tolerance” of weapons in schools and various combinations of laws.

The main outcome was the finding of “*insufficient evidence to determine the effectiveness*” of those laws on violent crimes, suicides and accidental injuries.

The CDC is notorious in the US for undertaking biased research on gun control under the guise of health research. When it finds the empirical evidence simply does not support the belief that gun laws make any difference, you have to believe it really tried.

The idea that America is gun happy and that this is a big problem we don’t need is difficult to understand in objective terms.

With the exception of murder, rates of violent crime in the US are considerably lower than in Australia. OECD statistics for 2000 show the US had less than half the rate of general assaults, sexual assaults, burglaries, robberies and car thefts as Australia.

Britain also has a higher crime rate than the US for all major crimes except murder and rape. Even then, the method of calculation may account for the difference. Also, 53 percent of English burglaries occur while occupants are at home, compared with just 13 percent in the US where burglars admit to fearing armed homeowners more than the police.

It’s not PC to say it, but if you were to remove black on black crime in several big cities, a large part of which is drug related, America has an extraordinarily low crime rate.

The assumption that guns are freely available throughout America is also incorrect. Gun laws vary enormously within the country, from virtual prohibition to virtual *laissez faire*. There are also federal laws that severely restrict ownership of certain firearms such as machineguns.

It is a simple fact that the States and cities with the strictest gun laws are among those with the highest violent crime rates. Washington. Chicago. New York, for example.

The State of New Hampshire, on the other hand, is one of 40 with a permit system for concealed carry of pistols for self-defence. Its Bill of Rights says, “*All persons have the right to keep and bear arms in defences of themselves, their families, their property and the state*”. The law prohibits taking the fingerprints of applicants for concealed carry permits.

New Hampshire has some of the lowest crime rates in the US and is nationally regarded as one of the safest places in which to live.

Since the early 1990s gun laws have been considerably relaxed in the US, particularly regarding self-defence, yet there has been no resulting increase in crime. The US national murder rate in 1991 was 9.8 per 100,000 but fell to 5.6 in 2006.

While America was liberalising its gun laws, countries like Australia, Canada and the UK were going the other way.

In America, violent crime rates fell substantially, with the biggest reductions in States that allowed people to carry concealed pistols for self-defence.

In Australia, Canada and the UK, violent crime rates either remained the same or rose.

The increase in US states that allow concealed carry had one other effect. Multiple victim public killings of the kind seen at Port Arthur declined. A study of all such shootings in the US from 1977 to 1999 found that deaths and injuries were 80 percent lower in states that passed laws allowing people to carry concealed pistols. To the extent that attacks continued, all but the smallest attacks took place where concealed handguns were banned such as schools.

Virginia Tech is one such gun-free zone.

Israel has had similar success in stopping mass public shootings. When it was realised that the police and military simply couldn't be there to protect people all the time when terrorists attack, a change of policy led to Israelis encouraged to carry concealed handguns. Since then terrorist gun attacks have been rare.

Today about 15 percent of Jewish adults in Israel have permits to carry concealed handguns. Thus in large public gatherings many citizens – unknown beforehand to the terrorists – are able to shoot back at them. During waves of terror attacks, Israel's national police chief will call on concealed handgun permit holders to make sure they carry firearms at all times.

About five million Americans across 40 states have concealed carry permits, just over two percent of the adult population. Numbers would have to increase about seven times to bring it up to the same level as in Israel.

Despite the lack of logic in disarming potential crime victims, those who implicitly believe in gun control, like John Howard, tend to maintain that belief irrespective of the evidence.

If there were another mass shooting in Australia tomorrow, we would inevitably hear a crescendo of calls for even stricter gun laws.

But prohibiting guns has the same effect as prohibiting anything.

The black market in guns is no less than it was before 1996.

Those who want a gun without putting up with big brother now have no choice but to deal with criminals.

Law-abiding gun owners like me can easily become criminals by minor infractions. A friend of mine is facing charges simply for having a pistol magazine that holds more than 10 bullets. He forgot to sell it to the government when they made it illegal.

There is a vast and expensive bureaucracy to deal with people like me. They process my licence application. They process the registration applications of each of my guns when I buy them, and again when I sell them. They check to see I've have attended enough meetings of my clubs.

The police also waste an enormous amount of time on minor infractions by gun owners. It's the equivalent of not having the numberplate light working on your car, but as soon as you mention it's about guns everyone thinks it's really important.

Gun prohibition has created an aura around guns that they don't deserve. It was once common for people to travel to the rifle range at Malabar on the tram carrying their 303 rifle. If someone tried that now they'd call a SWAT team and probably shoot them. An innocent man carrying a table leg was shot and killed by the police in the UK a few years ago. They thought he was carrying a gun.

I know many of you are not going to agree with me. Yet I believe that prohibiting drugs is pointless, as is prohibiting prostitution, certain types of advertising (longer lasting sex), smoking, voluntary euthanasia, and so on, and you quite likely agree with me about that.

So I wonder why you think I'm wrong and you're right. I simply remind you of Abraham Lincoln's famous quote: *"Those who would deny freedom to others, deserve it not for themselves."*

And since I started with a quote, I will finish on the same note.

Who said this:

"This year will go down in history. For the first time, a civilized nation has full gun registration. Our streets will be safer, our police more efficient, and the world will follow our lead." (Adolf Hitler: Chancellor's Speech, 1935)

"The most foolish mistake we could make would be to allow the subject peoples to possess arms. So let's not have any talk about native militias." (Adolf Hitler: Hitler's Secret Conversations, 1941-44, Farrar, Strauss and Young, 1953)

"All political power comes from the barrel of a gun. The communist party must command all the guns, that way, no guns can ever be used to command the party." (Mao Tse Tung Problems of War and Strategy, Nov 6 1938, published in "Selected Works of Mao Zedong," 1965)

But some support for gun ownership comes from other quarters:

"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 "Gandhi, an Autobiography," M.K. Gandhi, 446)

"A fear of weapons is a sign of retarded sexual and emotional maturity." Sigmund Freud ("General Introduction to Psychoanalysis," S. Freud)

"Those who would give up essential liberty to purchase a little temporary safety, deserve neither liberty nor safety." (Benjamin Franklin: Nov 11 1755, from the Pennsylvania Assembly's reply to the Governor of Pennsylvania.)

"Laws that forbid the carrying of arms...disarm only those who are neither inclined or determined to commit crimes. Such laws only make things worse for the assaulted and better for the assassins; they serve to encourage than to prevent homicides, for an unarmed man may be attacked with greater confidence than an armed man." (Thomas Jefferson: 1764 Letter and speech from T. Jefferson quoting with approval an essay by Cesare Beccari)

George Washington: *"A free people ought to be armed."* (Jan 14 1790, Boston Independent Chronicle.)

James Madison: *"Americans have the right and advantage of being armed, unlike the people of other countries, whose people are afraid to trust them with arms."* (Federalist Paper #46)

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David Leyonhjelm

David is Treasurer and currently also Secretary of the LDP. That's the Liberty and Democracy Party federally and the Liberal Democratic Party in the ACT. Hopefully it will be Liberal Democratic Party everywhere soon. (ldp.org.au)

In his life he has been a member of the Labor Party, the Liberal Party and for five years was Chairman of the Shooters Party.

He runs an agribusiness consulting and executive recruitment company. He is a former veterinarian and also has degrees in business and law.