Federal Government Faces Constitutional Challenges to Scrapping the Long-gun Registry

In April 2012, Parliament passed Bill C-19, which abolished the federal long-gun registry. Or at least attempted to.

The *Ending the Long-gun Registry Act* shuts down operation of the long-gun registry, including the collection and use of registered information, and begins a process to destroy all collected information.[1]However, the *Act* has not yet been implemented and the long-gun registry has not yet been dismantled. Why? A mounting number of legal challenges to the constitutionality of the law have prevented its implementation.

What is the long gun registry, and what does the change mean?

The long gun registry was introduced in 1995. Managed by the RCMP, it is a database of information about firearms and their licensed owners. It tracks information for three types of guns: non-restricted, restricted, and prohibited.

It was mandatory for Canadians to register their firearms. They risked conviction under the *Criminal Code* if they possessed an unregistered firearm.[2]

The change means that Canadians will no longer have to register their non-restricted or non-prohibited firearms.[3]

The Quebec challenge: an intrusion into provincial property and civil rights

On the day that Bill C-19 received Royal Assent, the Quebec government was granted an injunction to prevent the implementation of the Act in Quebec.[4] The injunction put a stop to any attempts by the federal government to start dismantling the registry. For now, information can still be collected in Quebec. The injunction has been extended and remains in place until June 13, 2012.[5] The injunction gives the Quebec government time to argue in court that the *Act* is unconstitutional.

On June 11, 2012, the Quebec government will appear in court to make its constitutional arguments. Quebec wants to set up its own provincial registry, and it wants to use the data from the federal registry to do so. The province says that by destroying the data, the federal government is preventing the province from tracking gun ownership information. Quebec argues that it has the power to track this information because of section 92(13) of the *Constitution Act, 1867.* This section gives the province power to legislate property and civil rights in the province.

The challenge in Ontario: a danger to women

The Quebec challenge is not the only hurdle that the federal government is facing. A Toronto legal clinic is also attempting to save the controversial registry, but for different reasons.

The Barbra Schlifer Clinic and its Executive Director are challenging the Act in Ontario Superior Court. They say that abolishing the registry "will increase the risk of physical violence, forcible confinement at threat of physical violence, serious physical harm, serious psychological harm, and homicide to women in situations of domestic violence."[6] As a result, they say that the law violates womens' right to security and equality, protected by section 7 and section 15 of the *Canadian Charter of Rights and Freedoms.*

Like the provincial government in Quebec, the Barbra Schlifer Clinic will first attempt to get an injunction to temporarily prevent the destruction of the registry. They will go to court to ask for this injunction on August 8, 2012. The full challenge will be heard in court in March 2013.[7]

There is one important difference between the Quebec challenge and challenge from the Barbra Schlifer Clinic. If the Quebec challenge is successful, it will only apply to the data collected in Quebec. But if the Barbra Schlifer Clinic challenge is successful, it will apply to all provinces and will mean the registry must remain in place across the country.

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[1] SC 2012, c 6.

[2] *Criminal Code*, RSC 1985, c C-46, s 91-92, as amended *by An Act to Amend the Criminal Code and the Firearms Act*, SC 2012, c 6, s 2-3.

[3] Meaghan Fitzpatrick, "10 things to know about scrapping the long-gun registry**",** *CBC News* (26 October 2011); Tanya Dupuis, Cynthia Kirkby and Robin MacKay, "Bill C-19: An Act to amend the Criminal Code and the Firearms Act" Library of Parliament (1 November 2011).

[4] "Quebec court injunction delays gun registry's demise", *CBC News* (5 April 2012). See also Caroline Touzin, "Registre des armes: Québec satisfait de la décision de la Cour", *La Presse* (20 April 2012).

[5] "Quebec extends long gun registry injunction", *CBC News* (20 April 2012).

[6] Laurie Monsebraaten, "Toronto legal clinic seeks to save federal long-gun registry", *The Star* (24 May 2012).

[7] *Ibid*.