

Constitutional Challenge

Police, victims of gun violence, health care, domestic violence support the law and fought for it all the way to the Supreme Court of Canada. In June 2000, the Supreme Court ruled the law was fully constitutional. The Province of Alberta, along with several other provinces and gun organizations, challenged the constitutionality of the law in the Alberta Court of Appeal arguing that while it was legitimate for the federal government to license handgun owners and register handguns, it was a violation of provincial jurisdiction to extend these provisions to long guns (rifles and shotguns). In October 1998, the Alberta Court of Appeal ruled 3-2 in favour of the federal government's position that the regulation of firearms was, in substance, a matter of public safety, falling within the federal government's right to legislate in matters of criminal law.⁴ It rejected the province's assertion that the regulation of long guns was, in pith and substance, an attempt by the federal government to intrude upon the exclusive jurisdiction of the provinces to legislate in the area of property and civil rights.⁵ The Province of Alberta appealed to the Supreme Court of Canada but the Court, in a 9-0 ruling, dismissed the appeal, maintaining 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.⁶

In the decision, the Court also confirmed that licensing cannot be separated from registration:

The licensing provisions cannot be severed from the rest of the Act. The licensing provisions require everyone who possesses a gun to be licensed; the registration provisions require all guns to be registered. These portions of the Firearms Act are both tightly linked to Parliament's goal of promoting safety by reducing the misuse of any and all firearms. Both portions are integral and necessary to the operation of the scheme.⁷