



TAKEN BY SURPRISE

The United States, Canada, and Anti-Missile Defence

- Kenneth H.W. Hilborn

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Less than three months ago -- that is, in late August or early September --- probably nobody in this room foresaw that before mid-October the United States would be at war with the Taliban regime in Afghanistan. Such failures of prediction are not exceptional. Indeed they are perfectly normal. Wars, or events that quickly lead to wars, often take us by surprise.

Imagine yourself back in 1977, being asked to identify the wars --- those involving at least one major power --- that were likely to be fought over the ensuing quarter-century, meaning the period from 1977 to 2002. It is unlikely that you would have come up with an even partially accurate list.

I was an academic specialist in international relations, and I know that I would not have come up with an accurate list. Britain against Argentina; the Soviet Union against a U.S.-backed anti-Communist resistance in Afghanistan; the United States against a pro-Soviet regime in Grenada (a regime that did not even come to power until March 1979); the United States against a drug-smuggling dictator in Panama; the United States and allies against Iraq; the United States and allies against the Serb remnant of what was still, in 1977, a united Yugoslavia; and most recently the United States, with allies, against the Taliban and associated Islamic extremists.

The point I am making is that if the past is any guide, we in the democracies are very unlikely to foresee long in advance most of the wars that lie ahead. They will take us by surprise, and they will probably have to be fought largely with weapons already in the arsenal before the military operations begin. Moreover, complex weapons systems take many years to move from the stage of development and testing to full operational status. If a country waits to decide on a new weapon until a particular war is imminent, or even until it is readily predictable, that

country may well find that it has delayed too long. It may well be acting too late.

Delay in developing anti-missile defence is especially dangerous because the absence of such a defence offers an incentive, indeed virtually an invitation, for proliferation of nuclear missiles to additional countries.

Most of the countries of the world live quite comfortably with the knowledge that the United States could bomb them at any time, or even wipe them off the map, and that they could do nothing effective about it. They live comfortably with that knowledge, as Canada does, because they have no intention of doing anything that would cause the Americans to go to war against them.

But if a regime wants a free hand to invade its neighbours, or to engage in some other provocative misbehaviour, then it needs some means of deterring the United States from intervention. The ability to destroy even a handful of American cities would clearly serve that purpose.

Now, if the Americans had strong anti-missile defences in place --- defences capable of protecting not only North America but also allied countries overseas --- it would be pointless for any relatively minor power (such as Iraq or North Korea) to spend its resources on acquiring a long-range missile capability. That capability would have no deterrent value, because whatever missiles might be launched would be unable to reach their targets. But as long as the United States and its allies remain defenceless against missiles, any regime that wants a free hand to misbehave must be strongly motivated to deploy at least a small force of that kind.

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To those who consent, no injustice is done

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Bad as it was, what happened in New York on September 11 was almost trivial compared to what WOULD have happened if a nuclear warhead had exploded over the city. From our local standpoint, of course, it would be even worse if a nuclear warhead exploded over Detroit, especially if we were downwind at the time.

It is commonly said that nobody would dare launch a nuclear missile against the United States, because the Americans would retaliate by destroying the country that did so. There are several reasons, however, for regarding the threat of retaliation as an unreliable, unsatisfactory means of averting potential disaster.

For one thing, consider the problem of prevailing winds. There may be innocent countries, even friendly ones, downwind from the aggressor, and those countries would suffer from the radioactive fallout that an American retaliatory strike would unleash.

A second problem is that any attack on the United States would have been launched by a dictatorship. Even if the effects of retaliation could be limited to a single country, killing millions of innocent people in order to hit back at a few guilty individuals -- the dictator and his henchmen --- could be reasonably interpreted as an act of genocide, a crime against humanity.

If an Islamic country were devastated, OR if it were downwind and took casualties from fallout, the effect might well be to radicalize previously moderate Muslims against the West, increasing the popularity of fundamentalist extremist factions. The result could be the fall of moderate governments and their replacement by fanatical ones of the sort that came to power during the 1990s in Afghanistan --- the Taliban regime that gave sanctuary to Osama bin Laden and his terrorist training camps.

A third problem, arising from the first and second, is that those who launched a missile against the United States might actually WANT retaliation. Suppose that an aggressive regime in some Islamic country has acquired long-range missiles for a strictly rational purpose --- namely, to deter the West from responding to

aggression by doing what was done to Iraq in 1991.

Suppose further that Muslim extremists have infiltrated the regime's armed forces, and that they succeed in overthrowing the government, or perhaps just in gaining control of a missile base. They might launch the weapons against such targets as New York, Chicago and Washington precisely in the HOPE of American retaliation, a retaliation they believe will turn the entire Islamic world against the Western infidel.

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A fourth problem --- arguably the biggest one --- arises from the development of mobile launchers for intercontinental ballistic missiles (ICBMs). Russia already has this technology, and so does China. Once achieved by one or two nations, technology tends to spread to other countries as well. The mobility of missile launchers facilitates concealment -- it allows you to conceal missiles inside barns, in road or railway tunnels, under highway overpasses, and so on.

As long as missiles are in fixed and known locations, deterrence is more likely to succeed, because the attacker faces two unsatisfactory choices --- either to launch all his missiles in the first strike, or to retain part of his force and face the prospect of its being destroyed on the ground when the victim strikes back. In either case, the attacker must know that there is nothing to restrain his victim's retaliation -- nothing except a possible reluctance to commit genocide, possible concern about the effect of fallout on countries downwind, and in certain cases fear of the international political repercussions.

By contrast, if ICBMs are on mobile launchers that can be reliably concealed, it becomes more tempting to launch only one or two missiles at a time. After destroying a single American city to show that he was in earnest, an attacker could announce demands, warn-

ing that either retaliation or a failure to comply with the demands would mean the loss of MORE cities.

With no anti-missile defence and no means of taking out the enemy missiles before launch, the United States would find itself in an extremely awkward predicament. Unless the survival of the United States as an independent country were at stake --- as it used to be in relation to the Soviet threat --- one wonders whether any U.S. president would be willing to retaliate against any enemy target if he knew that doing so would mean death for additional hundreds of thousands, perhaps millions, of Americans.

During the Cold War, when the United States and Soviet Union based part of their missile forces in submarines, they achieved both mobility and a degree of concealability. But each side also had attack submarines that did all they could to shadow the adversary's missile submarines, and the attack submarines tried to do so without revealing their own movements. So a missile submarine that set about firing its missiles would have run the risk of being immediately torpedoed. Because land-based mobile missiles do not face that danger, they pose a more difficult problem than submarine-based ones.

In the Persian Gulf War of 1991, the American and allied forces enjoyed complete air supremacy; yet Iraq was able to keep on launching its SCUD missiles against both Israel and allied bases in Saudi Arabia. If Iraq had possessed the capability to do the same thing with nuclear ICBMs against targets in the

United States, the Iraqi seizure of Kuwait would probably have gone unchallenged.

As I mentioned, land-based mobile ICBMs have already been acquired by the Russians, and

more ominously by the Chinese Communists. In August 1999 China flight-tested a missile known as the DF-31, supposed to be able to reach the western United States. Apparently it can be moved by truck. The Chinese have also been working on a longer-range mobile missile called the DF-41, also intended to be moved by truck and capable of hitting ANY part of the United States.

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"The basic and crucial political issue of our age is: capitalism versus socialism, or freedom versus statism."

- Ayn Rand

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The Chinese development of such weapons raises the danger that at some point China may use them as a means of putting pressure on the Americans over Taiwan -- that is, to deter Washington from intervening against an invasion of the island, or a naval blockade, or whatever means Beijing might choose to bring Taiwan under its control.

In 1995 a highly-placed Chinese general was quoted as saying that Americans cared more for Los Angeles than they did for Taipei, the capital of Taiwan. Moreover, in February of 2000, a writer in the official Chinese army newspaper warned the United States that it would be risking what he called "serious damage" to its national security if it intervened in a clash between Taiwan and Beijing. The writer pointed out that unlike Iraq or Yugoslavia, China could launch a "long-distance strike."

For diplomatic reasons, of course, President Bush and his Administration are unwilling to justify their plans for anti-missile defence by referring to a potential Chinese threat. The Administration prefers to speak of "rogue states," such as Iraq. But it is hard to believe that American strategists have entirely shut their eyes to the ugly possibility that China may become a "rogue state" at some time in the future.

Let me turn now to a few of the argu-

ments often used AGAINST the development and deployment of anti-missile defences.

One of them is scarcely an argument at all in any proper sense; it is mere rhetoric. The whole concept of anti-missile defence, we are told, is mere "science fiction" -- something that cannot work in real life.

Those who make this objection overlook the reality that science fiction has often become science fact. Among the most significant weapons of 20th Century warfare was the tank, which first made its appearance on the battlefield in 1916, during the First World War. Before that, however, the tank had been imagined in fiction, by the writer H.G. Wells in a short story published in 1903.

"MUCH of what we know as relatively recent history would have been looked upon as the wildest kind of fiction when the 20th Century began."

Indeed, MUCH of what we know as relatively recent history would have been looked upon as the wildest kind of fiction when the 20th Century began. When it began, the first successful test of the Wright brothers' flimsy little flying machine still lay in the future; that did not happen until December 1903.

Suppose that you were living exactly one hundred years ago, and somebody presented you with a book that we would recognize today as an accurate account of certain

momentous events that lay ahead. From the perspective of 1901, you would probably read that account with almost total disbelief. The story of air combat in the Battle of Britain would be astonishing enough, but even more so would be the Battle of Midway --- a great clash of naval power in which the opposing fleets never exchanged gunfire, but fought by launching torpedo planes and dive bombers against each other from odd-looking ships with flat tops.

Your incredulity would grow as you went on to read about the great bomber fleets that struck at Germany and Japan, the destruction of the city of Hiroshima by a single bomb, the development of long-range military rockets, and

the American landings on the moon.

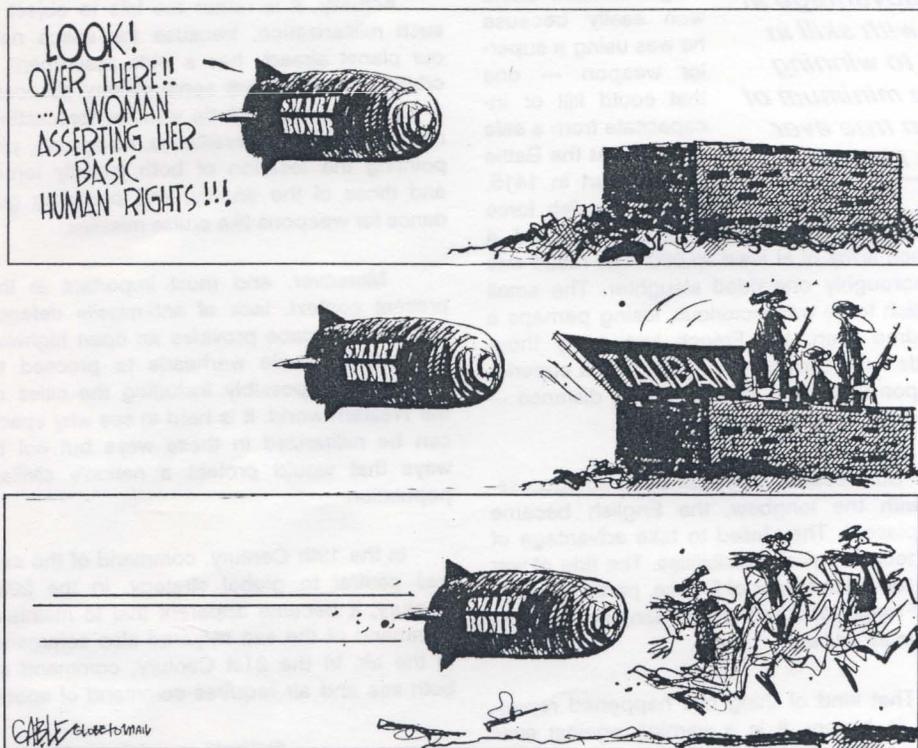
It is a safe bet that a great deal of what will happen in the century lying ahead would be equally astonishing to most people now living. Suppose that somehow you are transported forward in time to the year 2101, and that you find yourself reading a book on the history of the 21st Century. Perhaps you might learn about a great battle in, let's say, the year 2083. Perhaps it is called the Battle of the Martian Moons --- an encounter in which the energy-beam weapons of the United States Interplanetary Fleet shattered the combined space forces of Russia and China, thus securing for the Americans the undisputed mastery of the solar system.

Today, in 2001, a story of that sort would strike most readers as sheer fantasy; but it is not a bit more fantastic than many of the actual events of the last hundred years would have seemed to most people in 1901. The mere fact that a proposed weapon may seem like a science-fiction fantasy is no argument against it.

Those who dismiss anti-missile defence as "science fiction" appear to believe in what may be called the myth of the "ultimate" weapon --- that is, the assumption that intercontinental ballistic missiles are inherently unstoppable; that in one way or another, a missile will always get through.

Perhaps, it is said, a defence against missiles will simply lead potential attackers to build more missiles to overwhelm the defending forces. Alternatively, the attacker will use counter-measures to neutralize a defence. In

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"Trying to make things easy results in great difficulties." - Chinese proverb

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either case, so we are told, the result will be the same. The attack succeeds; the defence fails.

These views are based on the assumption that in the race between offensive and defensive weapons, the potential attacker will have the resources to compete successfully against the economic and technological resources of the United States. Personally, once a defensive system has been developed and deployed, I'd bet on the United States being able to expand and improve it more rapidly than any adversary could expand his striking force.

It's true that an extremely limited defensive system might encourage lesser powers to build additional ICBMs in an attempt to overcome it; but a robust defensive system would simply make it hopeless for lesser powers to compete in that way. As for counter-measures, such as decoy fake warheads, the side with technological superiority --- meaning the Americans --- should have a pretty good chance of coming up with effective counter-measures to the counter-measures.

In reality, far from being the unstoppable "ultimate weapon," ballistic-missile warheads are inherently vulnerable. They may seem to move very fast in relation to the speeds that we are accustomed to in our daily lives, but in relation to the speeds attainable in space, warheads following a ballistic trajectory towards surface targets are very slow --- no more than a few miles per second. They HAVE to be relatively slow, because additional speed would cause them to overshoot their targets or escape from Earth's gravity altogether. Interceptor missiles would not be subject to any similar limitation, especially if they were launched from battle-satellites already in space; and laser weapons would operate at 186,000 miles per second (about 300,000 kilometres per second), that being the velocity of light.

Arguments against anti-missile defence often amount to arguments against just about any new weapon.

In the late 1930s, for example, it might have been said that Britain should not build fighter interceptors --- the Hurricanes and Spitfires --- because doing so would merely force the Germans to build more bombers. Or it would lead the Germans to deploy counter-

measures, such as additional fighter escorts for their bombers. Or it might have been said that there was no point in building anti-submarine warships, because the enemy would merely deploy more submarines. And so on.

Of course one has to expect competition in weaponry. That is not a good argument against having weapons. It is an argument for winning the competition. And the best way to win is to get a head start on one's rivals (or potential rivals) by taking the initiative in exploiting to the full every technological possibility.

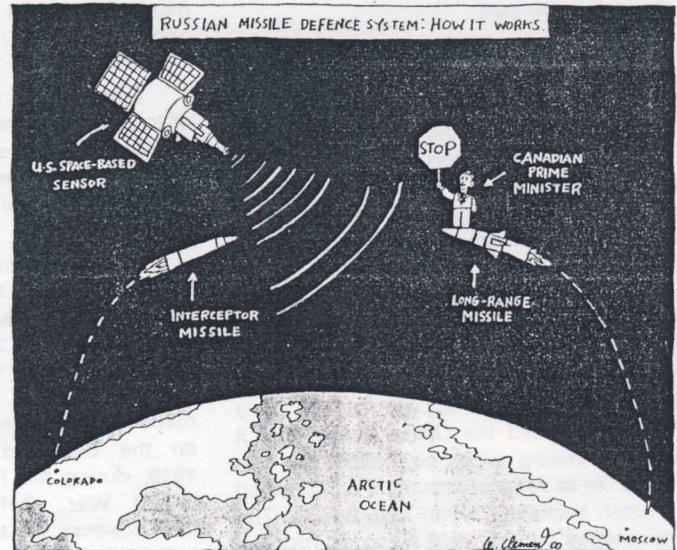
The long stalemate in World War I, with tragically heavy casualties, arose from the fact that neither side held a decisive technological advantage. Holding such a decisive advantage in technology, along with skill in using it, is the key to winning quick victories with a minimum of loss. That has been true ever since warfare was in its infancy.

"Holding a decisive advantage in technology, along with skill in using it, is the key to winning quick victories with a minimum of loss. That has been true ever since warfare was in its infancy."

When David fought Goliath, David won easily because he was using a superior weapon --- one that could kill or incapacitate from a safe distance. At the Battle of Agincourt in 1415, a small English force numbering fewer than 6,000 men faced a French army of at least 25,000. The result was a thoroughly one-sided slaughter. The small English force was victorious, losing perhaps a hundred men; the French lost many thousands. Like David, the English had a superior weapon that could kill from a safe distance --- in this case, the famous longbow.

But because they had been so successful with the longbow, the English became complacent. They failed to take advantage of new technological possibilities. The tide of war later turned in favour of France, partly because the French adopted a new-fangled weapon known as artillery.

That kind of thing has happened repeatedly in history. It is a warning against ever



being content with the weapons you already have, however well they may have served you in the past. One should always press ahead to explore new frontiers of technology and to exploit their potentialities. Otherwise some ambitious adversary may seize the opportunity to creep up on you from behind and take you by surprise, with very unpleasant results.

Some critics complain that anti-missile weapons are especially undesirable because they would involve what the critics call the "militarization of space."

Actually, it is rather too late to object to such militarization, because the space near our planet already has a wide assortment of orbiting satellites that serve military purposes --- purposes that include weather forecasting, communications, surveillance, navigation, pinpointing the location of both friendly forces and those of the enemy, and providing guidance for weapons like cruise missiles.

Moreover, and most important in the present context, lack of anti-missile defence means that space provides an open highway for ballistic-missile warheads to proceed to their targets, possibly including the cities of the Western world. It is hard to see why space can be militarized in these ways but not in ways that would protect a nation's civilian population.

In the 19th Century, command of the sea was central to global strategy. In the 20th Century, it became apparent that to maintain command of the sea required also command of the air. In the 21st Century, command of both sea and air requires command of space

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"The condition upon which God hath given liberty to man is eternal vigilance; which condition if he break, servitude is at once the consequence of his crime and the punishment of his guilt." - John Philpot Curran

BLAMING THE VICTIM

THE GENESIS OF THE BREAK UP OF CANADA

- Paul McKeever

{A lawyer practising in Oshawa and Toronto, Ontario, **Paul McKeever** is an executive member of the **Freedom Party of Ontario** and is also a founding member and chairman of the newly-forming *Freedom Party of Canada*.}

The "break-up of Canada"? It's a possibility that the federal government frequently blames on secessionist leanings in Quebec and the West. But are these movements the *cause* of what ails Canada, or are they *symptoms*? For an answer, one need only look at the genesis of secessionist sentiments.

Arguably, the genesis of Quebec and Western secessionist sentiments lies in the history of the so-called "Rule of Law". In theory, our constitution is our supreme ruler, and all --- including politicians and monarchs --- are bound to obey it.

In 1867, the **British North America Act** (part of our constitution) ended a 27 year attempt to wash-out French culture by uniting Upper and Lower Canada. The BNA Act (now properly called the **Constitution Act, 1867**) returned a jurisdiction and undiluted vote to Lower Canada (therein re-named Quebec). It created the federal Parliament, which was given some of the legislative power previously held by the individual colonies. But, to the exclusion of the federal Parliament, it reserved to the provinces the power to make certain types of laws. Even today, our federal Parliament and provincial Legislatures have only the law-making powers given to them by the BNA Act.

The BNA Act gives only to the provincial Legislatures the power to make laws relating to education and health care. And, until World War I, it was not contested that only the provincial Legislatures have the power to make laws that impose a direct tax (e.g., income tax, GST). But, in 1917, the federal government made a law that imposed a "temporary" income tax, purportedly to raise revenues for the war.

In response, a Quebec civil servant named **Caron** argued that the federal Parliament lacked the power to make such a law. The result, in 1924, was a decision by our then highest court (see www.ownlife.com/tax/caron1.htm) that the federal government can impose a direct tax if it raises "a revenue for federal purposes" (like the military), but not if it raises "a revenue for provincial purposes" (like education or health care). At the time, federal revenues were not spent on provincial purposes, so the income tax was held to be enforceable. However, subsequent federal spending on provincial purposes has put the enforceability of some federal taxes into doubt (see, for example, www.ownlife.com/tax/dmcs Sherman.htm or, in *Consent #24*, "Is the Federal Income Tax Act Unconstitutional?")

In 1929, the stock market crashed. A great economic depression followed. As the U.S. Federal Reserve's **Alan Greenspan** explained in **Ayn Rand's** book **Capitalism: The Unknown Ideal**, the crash appears to have been caused primarily by inflation of the supply of government-issued force-backed (fiat) paper money. But, at the time,

Keynesians, socialists and other authoritarians --- arguably for political reasons --- blamed the crash upon the free market. Promising to protect the poor with taxes on the "rich" and government spending programs, authoritarians in the industrialized world were voted into power: a welfare state was an easy sell during the depression. Authoritarian governments (in Canada, Liberals and Progressive Conservatives) essentially took away from individuals the freedom to make economic decisions for themselves, and transferred their power to a single, centralized government.

In Canada, the division of taxing powers between the federal and provincial legislatures was seen as an obstacle to effectively centralized control of the economy. Moreover, with only the power to impose an indirect tax (e.g. a retail sales tax), it would have been difficult for a federal government to impose higher rates of taxation on those with higher incomes (as was eventually done). So, promising to pay off the debts of the provinces and to pay them a "rent", the federal government persuaded most of the provinces to relinquish their jurisdiction over direct taxation.

The way was thereby paved for effectively centralized, authoritarian control of the Canadian economy.

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The constitution posed another pesky obstacle to centralized economic control. Specifically, until the rise of the authoritarians in the 1930s, governments had interpreted the constitution as allowing a government to spend only upon those things respecting which it could pass laws (e.g., the federal government could spend on criminal law, but not on exclusively provincial matters such as education; the provinces could spend on health care, but not on the military). Thus, the federal government literally invented the idea that its spending powers were unlimited. Making this bald assertion (an unlimited spending power is set out nowhere in the constitution), the federal government gradually circumvented the division of legislative powers set out in the Act by making so-called "conditional grants" of money to the provinces: provinces who dared not to make certain laws according to federal specifications would be denied their share of the grant.

The federal centralization of economic decision-making powers posed an obvious threat to French culture in Quebec. The BNA Act had been designed, in part, to protect French culture by limiting federal power.

Thus, almost from the outset of the authoritarians' attempts to circumvent constitutional limits on federal power via taxing and spending, Quebec protested loudly. It refused after the second World

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"One hallmark of freedom is the sound of laughter." - Harry Ashmore

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War to enter into tax rental and tax collection agreements. In the 1950s, Premier Duplessis struck a Royal Commission (the Tremblay Commission), the primary purpose of which was to demonstrate that only the provinces had the constitutionally-conferred power to make a law which imposes a direct tax. And, in 1957 (before he became a federal politician), Pierre Trudeau, addressing the issue of federal spending on universities, demonstrated the supposedly unlimited spending power to be a myth (see his 1968

Federalism and the French Canadians, p. 79: "Federal Grants to Universities").

"That we vote our tyrants into power does not mean that we live in a democracy."

But federal authoritarians continued their attack and dug deep trenches. In **The Allocation of Taxing Power Under the Canadian Constitution** (Canadian Tax Foundation, Canadian Tax Paper No. 65), then law professor Gerard La Forest recognized the limits placed on the federal Parliament's taxation powers but suggested that "the [words] of the [judges in the Caron decision] should probably be ignored. They were made when the device of transfer payments might still have been considered doubtful." He was later appointed by the federal Prime Minister to the Supreme Court of Canada, where he decided that, as a matter of policy, taxpayers should not be refunded money which is taken from them by means of an unconstitutional tax.

On the spending side, federally appointed judges have stated that conditional grants to provinces are not under-handed attempts to circumvent the jurisdictional limits set out in the constitution. And, despite his earlier writings, Pierre Trudeau did not hesitate to engage in such spending as federal Liberal Prime Minister. The centralization of economic decision-making power was, and remains, extended and secured.

Over the decades since the rise of federal authoritarianism, Quebec's struggle to have the federal government respect the limits of its own power bore little fruit. Many Quebecers, having lost much provincial power, fearing the loss of their heritage and culture, and losing faith in the idea that the federal government would once again respect the terms of union set out in the BNA Act, turned their gaze to the only alternative: taking back the legislative powers it had given up to the federal Parliament in 1867 (i.e., secession). If the federal government was unwilling to respect the stated terms of the provincial partnership, the partnership would have to end.

The secession of Quebec could be very costly for the rest of Canada. And so it became the practice of the federal government to bribe Quebecers not to secede by giving Quebec relatively high shares of the federal spoils: by making the federal government seem indispensable to Quebecers despite federal violations of the terms of union. But that could not be done without providing the rest of Canada with a reason. So, rather than accepting any blame for separatist sentiment in Quebec, rather than telling the rest of Canada that

federal hand-outs to Quebec were to quell the separatist feelings caused by federal circumvention of the constitution, Quebec was blamed. All of Que-

bec separatism was characterized as a movement born not of reaction to federal usurpation of provincial power, but merely of French bigotry and hatred toward English-speaking Canada.

And the rest of Canada was duped.

Today, most Canadians (including lawyers) know little or nothing about federal circumvention of the constitutional limits of federal power, but many people think of Quebec as a province of spoiled extortionists. A victim of federal authoritarianism has been successfully blamed, and Canada's biggest champion for the rule of law slandered.

And, of course, federal strong-arm tactics in the West have added steam to Western secessionist sentiments. For example, any provincial talk of providing Albertans with quicker, better medical care through free market medical clinics is met with federal threats to Alberta's share of (arguably illegal) federal health funds. But Alberta, by taking such steps as decoupling its income tax regime from that of the federal government, is working steadily toward a more autonomous state of affairs.

Whereas the secession of some provinces from federal jurisdiction (usually called the "Break up of Canada") is a clear and undesirable possibility, Canadians must not allow the federal government to make scapegoats out of

the provinces. Clearly, secessionist sentiments in Quebec and the West are the result of federal Liberal and PC centralization of the economy (and the Canadian Alliance is following suit with calls for more federal funding for health care).

Money, and the power to interfere with the free market, is the lifeblood of authoritarianism. In Canada, the federal government must continue to circumvent the constitution and usurp provincial power if it is to maintain its power to interfere with the free market. Such circumvention is --- to any intellectually honest person --- anti-democratic.

Democracy is the process by which the governed determine the laws of the land: law is the only direct product of democracy. So, when a government refuses to let its actions be governed by law --- when, for example, it skirts constitutional limits on its legislative power and exercises unlimited force by virtue of an unlimited spending power --- the country ceases to be governed in a democratic way. Democracy is replaced with tyranny. That we vote our tyrants into power does not mean that we live in a democracy.

What does this mean for the voter? It means that we must recognize that the survival of Canada depends upon democracy (by which, I am not implying majority rule). It means that, to regain and preserve democracy, we must elect only those persons and parties that are committed to respecting the constitutional limits of federal power. And, because an authoritarian federal government cannot meet its objective in Canada if the constitution is respected, democracy demands that we vote out of power our authoritarian politicians in the federal Parliament.

Democracy and the abatement of secessionist sentiments require that we vote in favour of federal politicians and parties that will discontinue the practice of using direct taxation and unlimited spending to usurp provincial economic decision-making power.

The break-up of Canada? If we continue to vote for authoritarian party members (especially in Ontario), we will have nobody to blame but ourselves.

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"What is a communist? One who has yearnings for equal divisions of unequal earnings." - Ebenezer Elliott

CRIME DOES PAY

- Karen Selick

{An edited version of the following article first appeared in the January 10, 2001 issue of *The Globe and Mail*. At the time of its publication, **Karen Selick** was a lawyer practising in Belleville, Ontario. A regular columnist for *Canadian Lawyer* magazine, she has also been frequently published in many daily newspapers across Canada. Copyright by Karen Selick. For reprint rights, contact the author via **Freedom Party** or on her website at: "www.karenelick.com". **Please note** that **Bill 155** was re-introduced as **Bill 30** (which it is currently known as) after the Harris government prorogued the last session of the legislature on March 2, 2001 and resumed its sitting on April 19, 2001. On October 22, 2001, *Bill 30* passed committee hearings, unamended.}

According to Ontario's Solicitor General David Tsubouchi, organized crime has become "a threat to our way of life." Therefore, he and his colleagues in the Ontario government have introduced **Bill 155**, the **Remedies for Organized Crime and Other Unlawful Activities Act**. It had first reading in the legislature on December 5, 2000.

Unfortunately, like many legislative remedies to society's problems, this one promises merely to cloak the symptoms, not cure the underlying disease. What's worse, to anyone concerned about civil liberties, the remedy threatens to endanger our way of life far more gravely than the original problem.

The law will operate by allowing judges to transfer suspected proceeds of crime (including drugs and cash) as well as property allegedly instrumental in the commission of a crime (such as houses and vehicles) to the government, whether or not anyone is ever charged with or convicted of the alleged crime. This is called "**civil asset forfeiture**". The theory is that it will remove the profit from crime --- that it will prove to criminals, literally, that crime doesn't pay.

A good theory, except for one small flaw. The profit won't really be gone; it will merely be diverted.

This little fact has two important implications. First, it undermines the likely efficacy of the proposal. Criminals can hardly be expected to give up their lucrative lifelong occupations for new careers in taxi-driving when there's still a raging demand for the illegal products they've been providing. Instead, they will simply carry on with business, turning some of their energies to preventing the diversion of their profits.

Every new law enforcement measure in recent years has been met with increasingly sophisticated evasive techniques on the part of organized crime. Those who were formerly just drug-dealers or smugglers now conduct money laundering schemes. Local criminal organizations have gone global.

Foreign jurisdictions such as the United States, where civil asset forfeiture laws have been in place for decades, now find it necessary to encourage neighbouring territories to adopt similar measures. Ontario, too, will find that its proposed law may drive criminals' accumulated assets out of the province to safer havens, but it won't stop the crimes from being perpetrated here, not as long as there's money to be made

from it. Organized crime still thrives in the U.S. despite harsh asset forfeiture laws.

The second implication is that all that diverted money has to go somewhere. Ontario proposes that it go into a special fund. From there, it will be used to compensate victims of organized crime and to reimburse law enforcement bodies (the Crown, municipal police departments, etc.) for expenses incurred in processing cases under the asset forfeiture laws. Anything left over will be used as the regulations prescribe --- in other words, as the cabinet chooses.

Compensating victims is a worthy goal, right? But just who are the victims of organized crime?

When Ontario Attorney General Flaherty talks about this aspect of Bill 155, he likes to focus on car thefts and credit card scams.

However, studies indicate that the main source of revenue for organized crime is still the drug trade, which is estimated to generate revenues of \$7 to \$10 billion in Canada annually. Other major activities include the smuggling of liquor, tobacco and people. Illegal gambling is another, relatively minor, activity. The common thread among all these activities is that the

participants on both sides of the transaction engage in the activity voluntarily. There are no unwilling victims. Both sides are guilty of something the state has deemed a crime.

It seems unlikely that anyone will ever approach Ontario's victim fund seeking compensation because the marijuana he bought turned out to be oregano. Or because his dealer overcharged him for cocaine. Or because he got cirrhosis of the liver drinking untaxed booze. Or because his snakehead promised to get him to the U.S. but abandoned him in Ontario.

So there should be plenty of money left over to beef up the budgets of the Ontario Crown and police departments and to go into cabinet's slush fund.

What's wrong with this picture? It will mean that crime does pay for the state and its minions. It will add a flock of respectable citizens --- judges, lawyers, police officers, bureaucrats --- to the burgeoning

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"Knowledge is knowing a fact. Wisdom is knowing what to do with that fact." - Saying

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number of people whose livelihood depends upon the continued existence of organized crime.

Furthermore, it will distort the priorities that law enforcement officials will attach to different types of crime. Why send officers out to investigate some trivial purse-snatching, burglary or car theft when their time could be spent sniffing out drug proceeds which will end up in police department coffers? Then we can hire more officers and sniff out more drug proceeds, and so on, and so on.

In fact, why attempt to keep drugs out of the country, or prevent them from being sold? After all, police can't be everywhere at once. Since choices have to be made, it will be tempting to let the drug trade proceed unmolested, then just go after the cash.

This law threatens to transform policing into a self-contained, self-perpetuating little

industry, hooked on the proceeds of vice just like any addict, putting occasional pressure on organized crime but never enough to derail the gravy train. If it were anyone other than the government doing this, we would call it a protection racket.

Once the state becomes the ultimate beneficiary of crime proceeds, how different is it, really, from being simply the most powerful gang in a battlefield of gangs? Power corrupts, and government employees are not immune. Quebec's anti-gang police squad has already gotten into the spirit of gang mentality, dubbing itself the Wolverines.

Despite these criticisms of Bill 155, there is still merit in the idea of tackling organized crime by taking the profit out of its activities. This doesn't mean diverting the profits, it means preventing profits from arising in the first place.

The solution is to legalize vice. Legalize

drugs, gambling, prostitution, adult pornography. Repeal the huge sin taxes on liquor and tobacco. Eliminate the conditions of high risk that make it possible for the brutal and reckless to monopolize the vice industries and drive up prices.

When people can grow their own marijuana or buy it from their next-door neighbour's patch, there won't be any profit in it for organized crime. When prostitutes can advertise in the Yellow Pages and turn to police if they get robbed or assaulted, they won't need pimps.

We will never succeed in eliminating vice. Centuries of laws have already proven that. Our efforts to control unsavoury, but voluntary, human activities by criminalizing them have backfired every time. Each new law has created problems of far greater magnitude.

Isn't it time we stopped repeating the same mistake? {END}

OH CANADA!

-Adam Young

{Adam Young is studying computer science in Ontario, Canada. The following essay originally appeared on the Ludwig von Mises Institute website on February 13, 2001}

For the past several years the United Nations has proclaimed Canada to be "The Best Place InThe World To Live." But if you value individual and economic liberty, you are not likely to agree.

In continually lauding Canada year after year, what does this tell us about the UN's goals and agenda? What is it about Canada that the UN sees as especially praiseworthy and, by implication, the model to be emulated by other regimes?

Could it be high taxation, centralized power, wealth redistribution between regions, and social engineering?

To understand Canada, one must realize that the self-proclaimed elite --- an axis of journalists, politicians of all political parties, and academia --- view Canada as a moral conscience to the world precisely because of its statism. And they proclaim it morally superior to virtually any country, but especially so to the United States.

Anti-Americanism is itself almost a religion amongst nationalists in the media, government, and parties axis. The myth is very popular that the US is a free-market bonanza with gun-toting cowboys and robber barons around every tree. And any suggestions that the free market is more just and efficient than the welfare state is derided as the dreaded "Americanization" of Canada.

But this wasn't always so. Canada was once called the "Switzerland of the North." For example, in 1968, Canada was second only to

the United States among the G7 economies in per-capita income. Now Canada is 18th amongst the 27-member OECD --- behind Italy and even Ireland --- a country with ten percent of Canada's population.

In between then and now came various schemes of social democracy: deficit spending, bouts of nationalizing industry, attempts to control consumer prices, state regulation of foreign investment, and regional development plans and transfer payments from the wealthier provinces to the poorer ones. Thirty years worth of welfare has not made these provinces "self-sufficient."

Along with all this came the CBC, the government-owned news network, which faithfully mouths the nationalist side and claims to provide the 'Canadian View' of news (anti-capitalist, anti-American, pro-UN, pro-big government), and an annual budget of \$5 billion Canadian to pay various Indian tribes --- called aboriginals and first nations --- constituting less than 500,000 people, to remain on their reservations. Not surprisingly any criticism of this is immediately called racism.

Canada seems to be a magnet for bizarre statist schemes, such as the Parliamentary resolution to end child poverty by the year 2000. When this 'law' was not achieved last year, it was solemnly proclaimed that child poverty had increased from 15.3% to 19.8%, but strangely the statistical methodology is never questioned. And of course this scheme led to calls on the government to spend \$3 billion over five years on

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"We have the right, as individuals, to give away as much of our own money as we please in charity; but as members of congress we have no right to so appropriate a dollar of the public money." - Davy Crockett

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social programs.

Apparently there are no social programs that fail in Canada; they are only underfunded. Other notable schemes include:

* a serious proposal in the early 90's to turn Canada into a refugee lifeboat for abused women worldwide --- which died apparently from ridicule;

* the current party-in-powers' running on instituting a universal taxpayer-funded child care scheme --- shelved due to the deficit crisis several years ago (around the same time the Wall Street Journal called Canada an honorary member of the third world);

* a proposal made shortly after the last election in December for a guaranteed minimum income;

* mayors from all over the world being offered free trips to Montreal for helping the World Health Organization persecute smokers.

* recently, the federal government admitting to having "lost," through bureaucratic accounting, \$1 billion in its "jobs program."

Perhaps why the UN loves Canada so much is because the two so resemble each other in support of every left-wing issue that comes along, but also perhaps because the UN is an avowed opponent of the free market, and statism appears to be secure in Canada for the foreseeable future.

But perhaps the UN really admires Canada's third-world political system. Although the PM is merely the leader of the party with the most seats in Parliament, among the powers of his office is the appointment by

ministerial fiat of the representative of the Canadian head of state (the British Monarch) called the Governor-General, the appointment of all Supreme Court Justices, as well as all members of the Senate (some notable Senators, including a Prime Minister's dentist, and one of the current PM's golfing cronies) as well the total discretion of when the election is called within the 5 year term of every Parliament. It is also worth mentioning that Parliament has the legal ability to suspend all civil rights with the War Powers Act.

These are the instruments of party patronage that grease the system for every party in power.

Maybe the UN admires Canada because they both resemble each other in nepotism,

ged minorities in cases involving politically incorrect assertions, and hate crimes legislation is all the rage, and quotas for francophones and other minorities are imposed.

Certainly the UN believes itself to be morally superior and the conscience of the world, and in Canada, maybe we have the UN's view of what all its statist projects and bureaucracy can achieve. Maybe Canada is the model UN nation: the haven of the poor, the oppressed, and protector of minorities.

It could just be that Canada is being used as UN propaganda, since just about everyone already sees Canadians as nice, friendly "compassionate" people, which is surely the image that the UN --- and all statists for that matter --- wishes for itself.

"In continually lauding Canada year after year, what does this tell us about the UN's goals and agenda? What is it about Canada that the UN sees as especially praiseworthy and, by implication, the model to be emulated by other regimes?"

patronage, bureaucratic mazes and back room fixing.

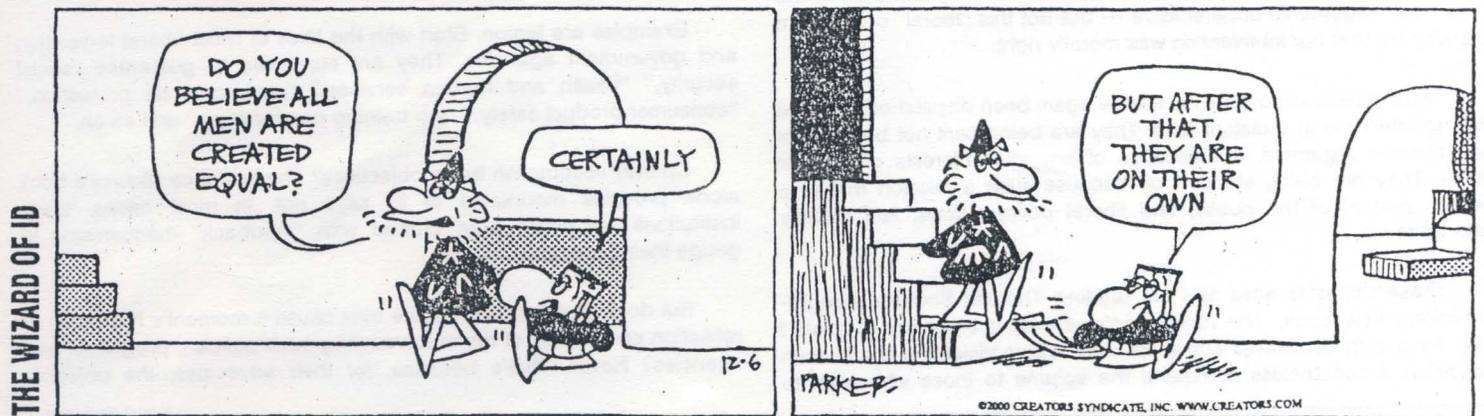
Or perhaps the UN admires its economic system, where the political elite's determination of who constitutes "the rich" begins at an annual income of \$66,000 Canadian, where the taxation rate for the middle class approaches nearly 50% of one's income, or perhaps that the media and other political consensus makers deride suggestions that economic liberty is as much a right as speech and religion.

Or maybe the UN admires the social regime, where a real system of thought policing functions --- in only one direction politically, of course --- where "Human Rights Commissions" police speech against privile-

In Canada, the UN undoubtedly sees the fantasy of a compassionate society, where the "poor" and "underprivileged" can find "dignity," where minorities can find "justice" against their cruel "oppressors," where women can find liberation through the state, and where children are protected from the violence of white males.

But apparently what the UN really values is an undisturbed record of centralization, patronage, corruption, cronyism, social engineering, mismanagement, inflation, regulation, regional wealth re-distribution, and every other manifestation of Social Democracy.

Unfortunately, Canadians are content to continue smugly looking down their noses at Americans, participating in the national pastime of hating "Americanism"; content to continue bragging about having universal health care while that very system is becoming the virtual equivalent of the death penalty, and content to suffer cruel levels of taxation and an ever declining standard of living. {END}



"If you fold on principle, you'll be rolled on degree." - Saying

...PAVED WITH GOOD INTENTIONS

- Robert James Bidinotto

{Mr. Bidinotto is a long-time contributor to *Reader's Digest* and *The Freeman*, and a lecturer at seminars sponsored by the *Foundation for Economic Education* (FEE). The following essay originally appeared in *The Freeman* in February 1996.}

Have you ever wondered why so many modern liberals seem to be immune to reason and evidence? Why --- despite the disastrous consequences of their various policies --- they remain intractably loyal to the same courses of action, and undyingly committed to repeating the same mistakes?

Well, could it be that the real-world consequences of their policies aren't even important to many statist? That they are pursuing their pet policies, not for any practical objectives, but for psychological ones?

Consider, for example, the reasons recently set forth for sending American troops to "keep the peace" in Bosnia. It was an instructive episode --- not in understanding international affairs, but in clarifying the motives that underpin the policy prescriptions of collectivists.

The idea that our nation's "vital interests" are at stake in the outcome of a civil war in an obscure part of Europe is ridiculous on its face. Likewise, the argument that America's "credibility" would be damaged by not fulfilling our international peacekeeping "commitments" to NATO, simply begs the question: why are we making open-ended commitments of our troops to international peace-keeping missions in the first place?

But another reason was advanced --- not a practical one, but a "moral" one. Slaughter of innocents was occurring in Bosnia, said the proponents of intervention; and stopping that slaughter was "the right thing to do."

In one national poll Americans indicated that they found all of the "practical" arguments unpersuasive --- but not this "moral" one. A slim plurality felt that our intervention was morally right.

Thus, American soldiers have once again been dispatched, at great risk, to intervene in a distant land. They are being sent not because of any rational argument, not because of any vital interests of ours at stake. They are being shipped off because such a mission makes a certain portion of the public, and liberal policy-makers, feel morally self-righteous.

These thoughts arise as I am reading Thomas Sowell's thought-provoking new book, *The Vision of the Anointed*. Whatever quarrels I may have with Dr. Sowell about his own "tragic vision" of the human condition, I nonetheless commend the volume to those who wish to

grasp the psychological motives underpinning liberal policies.

Dr. Sowell makes the same basic point that I did in a March 1987 *Freeman* essay, "The Morality of Good Intentions." The subtitle of his book is: *Self-Congratulation as a Basis for Social Policy*. That is, the real-world consequences of their policies are far less important to many statist, than how the advocacy of such policies makes them feel about themselves. Simply put, "intentions [are] the touchstone of the vision of the anointed."

The point moves us, of course, away from the factual realm of rational analysis, and into the murky world of motivation. Under most circumstances, such a journey ought to be avoided. Issues should be argued on their own logical merits. Switching the arguments to the

motives of the proponents of each side invites *ad hominem* and subjective speculation.

But suppose one has exhausted rational argument? Suppose that, in the face of uncontested refutations and overwhelming evidence, one's adversary still remains stubbornly,

irrationally wedded to his demonstrably false idea or failed policy? Suppose he meets your arguments not with factual rebuttal, but only with emotional outbursts --- and with his own speculative *ad hominem* attacks on your motives and morality?

Under such circumstances, the grounds of argument have been shifted by your adversary from the logical to the psychological. At that point, one has the right in self-defense to ask himself: What emotional need is my adversary's policy prescription filling?

Examples are legion. Start with the titles of most liberal legislation and government agencies. They are supposed to guarantee "social security," "health and human services," "environmental protection," "consumer product safety," "job training partnerships," and so on.

Do they accomplish these objectives? The evidence (Sowell's book alone provides mountains of it) says not. In most cases, these institutions are never even crafted with "feedback" mechanisms to gauge their success or failure.

But does demonstrable failure ever cause a moment's hesitation or reflection on the part of those advocating such policies, programs, and agencies? Never. That's because, for their advocates, the objective

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"It is only when you do not know what your conclusions will be that thought is free." - John MacMurray

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success or failure of the program is beside the point.

The point, for the advocates, is that they have demonstrated their moral commitment to social security, environmental protection, peace, or other vague, noble-sounding objectives. The point is not practical results: it's instead the self-congratulatory objective of making themselves feel noble and righteous, by the cheap expedient of spending the capital --- and too often, the blood --- of their fellow citizens, in the name of wozy ideals.

For example, interventionists proclaim their aim to raise the income of poor, inner-city youth via minimum wage laws. But do they

seem concerned when minority unemployment subsequently rises? They declare their support of rent control to allow the poor greater access to affordable housing. Do they ever seem concerned when the available stock of housing dramatically shrinks?

They announce their intention to relieve starvation in Somalia by sending in our Marines to stop civil unrest and feed the people. Do they vow to cease such self-sacrificial missions in the future, when the only evident results are the empowerment of brutal warlords, and the return of our soldiers in body bags? No: they vow to repeat the same sort of "mission" in Bosnia.

For those who base their self-esteem on "good intentions" alone, a social system of

laissez-faire capitalism and individual rights offers nothing. Capitalism is a social system whose currency is results, not intentions. "It is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest," wrote Adam Smith. "We address ourselves, not to their humanity but to their self-love, and never talk to them of our own necessities but of their advantages." This is anathema to those whose self-images totter shakily upon the props of their subjective intentions.

"The vision of the anointed," as Sowell describes it, ultimately depends upon self-inflicted blindness to practical consequences. For by that standard, they --- and their policies --- stand condemned. {END}

Dilbert



WIZARD OF ID

BY PARKER & HART



"A majority vote: that is what we have the moronic audacity to call democracy." - John Farthing

(...SURPRISE cont'd from page 4)

--- that is, the ability to use space for one's own military purposes, while preventing an enemy from using it in any way that would seriously limit one's freedom of action. A threat to your cities from concealed ballistic missiles obviously does impose a limit on freedom of action.

Critics of defence against missiles often claim that it would be pointless, because the bad guys who cannot deliver missiles to American cities will simply resort to terrorism instead.

Once again, this kind of argument is really one against self-defence of any kind. It might equally well be said that a bank should not take precautions against embezzlement, because doing so will force criminals to resort to armed robbery; or that police officers should not wear bullet-resistant vests, because criminals will respond by aiming at the head. Obviously it is indispensable to take precautions against terrorism, but those precautions will be of no use if the bad guys can lob in a missile warhead instead.

Another argument holds that a defence against intercontinental ballistic missiles would be "illegal," because it would mean "violating" the ABM treaty, signed by the United States and the Soviet Union in 1972 --- a treaty that did in fact prohibit most defences of the kind in question.

Even after the collapse of the Soviet Union, this treaty is regarded as having remained in effect as between the United States and Russia. Under the treaty terms, however, either party has a right to withdraw from the arrangement six months after giving notice of an intention to do so.

In view of the American right to withdraw from the treaty legally, there has never been any genuine possibility that the Americans

would "violate" the treaty. There has never been any conceivable need for them to violate it.

Another argument is that quite apart from legalities, the ABM treaty is such a valuable agreement that it must be preserved in the interests of global arms control. The reality is rather different. For the reasons I explained

"The lack of an anti-missile defence promotes proliferation of nuclear-missile capability, because it makes that capability worth having."

earlier, the lack of an anti-missile defence promotes proliferation of nuclear-missile capability, because it makes that capability worth having.

Despite its economic weakness and continuing technological inferiority, Russia still clings to what might be called the nuclear remnants of the old Soviet Union's superpower status --- that is, it clings to long-range nuclear missiles that supposedly balance those of the United States.

Maintaining this balance is a matter of national pride rather than any genuine strategic need, since the United States has no more reason to attack today's Russia than it has to attack various other countries that get along perfectly well with no nuclear deterrent force, or at least with no such force capable of threatening Americans.

Because the Russians want to be able to think of themselves as the nuclear equal of the United States, they have been reluctant to accept any change in the ABM treaty that would allow the Americans to develop anti-missile defences.

But, as I explained, Washington is legally free to withdraw from the ABM agreement. By

making clear his willingness to make use of that option, President Bush gained leverage with Russia, confronting Moscow with the alternative of agreeing to modification of the treaty or ending up with no treaty at all.

The risk now is that because of the priority given to maintaining the anti-terrorist coalition, President Bush will keep Russia happy by postponing American withdrawal from the treaty more or less indefinitely, so that pressure on Russia will be relaxed and Moscow --- particularly the more nationalistic elements in Moscow --- will no longer see any need to accept a revised arrangement. That would cripple the development of anti-missile defences, and leave the United States facing an increasingly dangerous situation --- a situation that would obviously entail dangers for Canada as well.

It is therefore unfortunate that the present government in Ottawa has been either hostile to anti-missile defence, or at least unwilling to endorse it.

I believe that instead of talking about the supposed virtues of the ABM treaty, Ottawa should encourage Washington to emphasize strategic realities. Unfortunately, we are unlikely to get such a change in policy until we get a change in government --- one of the reasons to welcome plans for the creation of a federal Freedom Party. {END}

ADDENDUM: On December 13 President Bush announced that the United States was giving formal notice of withdrawal from the ABM treaty. Thus one of the concerns I expressed in my speech has been laid to rest. It remains to be seen, however, what concessions the U.S. may make to Russia in any negotiations that may ensue for a new strategic relationship. In any case, the cause of anti-missile defence would benefit from full Canadian support and cooperation, a course that the present Liberal government (to judge from its attitudes in the past) will probably be reluctant to adopt. - K. Hilborn, Dec. 14, 2001

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