

National Affairs by Claire Hoy ? Supremes violating a sacred trust

We now take you back to that horrific Boxing Day tragedy in 2005 when 15-year-old Jane Creba was shopping with her sister on Yonge Street, only to be gunned down as a result of a gang shootout.

Creba's death marked a horrible year for Toronto during which there were 80 homicides, including a record 52 shooting deaths. Her death sparked a nationwide outrage against gun criminals, sparking even the hopelessly liberal Toronto Star to laud then prime minister Paul Martin for introducing mandatory minimums against those who used guns in the commission of a crime.

The Star, as the National Post's Chris Selley properly pointed out earlier this month, even chastised the federal NDP for focussing too much on "social conditions that breed crime" "accusing them of "committing sociology" "and Martin's omnibus crime bill containing mandatory minimums was supported by all the Liberals and all but a single New Democrat.

Then premier Dalton McGuinty also weighed in to support mandatory minimums and his then attorney-general Michael Bryant, in an op-ed piece published by The Star, said there was a "national consensus" Parliament needs to send a message to the streets that everyone who commits a gun crime is going to do time, and that time will be significant. That means more gun crimes need mandatory minimum sentences to better reflect the human misery gun crimes cause.?

Ah yes. But that was then, before the dreaded Stephen Harper became prime minister and increased mandatory minimums from one year to three.

Earlier this month, the same Toronto Star, which had been gungho on Liberal mandatory minimums, lead the cheering when what has become the most political Supreme Court in Canadian history struck down the law on a 6-3 vote as unconstitutional and did so by inventing a scenario where, indeed, the sentencing would not fit the crime but where also the chances of their scenario happening are zero.

While Martin's mandatory minimum sentencing was socially responsible, Harper's, alas, was yet another example of the Tory leader's "cynical politicking.?"

The Star, apparently failing to see the irony in its own position "let alone the continuing anti-Tory partisanship of our unelected and unaccountable Supremes" chastised the court minority for writing that "it is not for this Court to frustrate the policy goals of our elected representatives.?"

That's true when the Liberals are in. But when the Tories hold power, apparently, somebody has to stop them.

To justify killing the law, the court majority concocted a scenario where the law would never apply in the first place, i.e. the supposed case of a "licensed and responsible gun owner" (Who) stores his unloaded firearm safely with ammunition nearby, but makes a mistake as to where it can be stored??"

The majority said that person would be subject to the three-year minimum jail sentence even though that exact scenario has happened countless times in Canada and not a single person has been charged under the law in question, a reality which prompted dissenting judges to write "in an unusually strong rebuttal of their colleagues" that "stretches the bounds of credulity.?" They went on to accuse the majority of frustrating the policy goals of the elected Parliament "based on questionable assumptions and loose conjecture.?"

These are the same Supremes who, in a recent ruling on another matter, cautioned against the use of hypotheticals. Yet the only way they could satisfy their partisan desire to block the Harper government is to create an absurd hypothetical and then conclude that it would be unconstitutional to send the offender to jail for three years. Well, yes, it would. But since the hypothetical is totally absurd it would never happen, hardly a strong legal basis upon which to overturn a law approved by the vast majority of this country's elected representatives.

Those who are applauding the Supremes for their continued campaign to overturn Harper's crime laws should be careful what they wish for.

There may come a day when the Supremes, with a different cast of characters, decide to turn their guns on laws that the left holds dear.

The very basis of our legal system is that the courts are supposedly free of partisan bias and are charged to determine cases on the merit "or lack of merit" of the particular laws as they are written and approved by Parliament, not as they personally would like to see those laws.

The current Supremes, more than any in our history, have violated that sacred trust.

