

# Book Review

## *The Security of Freedom: Essays on Canada's Anti-Terrorism Bill*

Ronald J. Daniels, Patrick Macklem, and Kent Roach  
Toronto: University of Toronto Press, 2001. 499 pp.

The first and largest thing to say about this book is that its very existence is a remarkable academic feat. The organization of the conference on which it was based and the subsequent emergence of the book together took no more than three weeks. The editors had to move fast: the bill that they planned to place under close academic scrutiny had been introduced in the aftermath of the events of 11 September and was going through the legislative process at rapid speed. But their own expedition meant that the book was available to make an impact before its discussion of the issues had been rendered irrelevant by events.

Rushed though parts of the volume inevitably are, the overall effect is of a high quality piece of work. There are eight parts (comprising no fewer than twenty-five essays) dealing with the anti-terrorism bill from numerous perspectives, ranging from the theoretical (an excellent first part on "the security of freedom") through the political ("the charter and democratic accountability") via excursions into the criminal law, criminal justice, the financing of terrorism, and information gathering into a final couple of parts on, respectively, "international dimensions of the response to terrorism" and "administering security in a multicultural society."

The four essays in this last section on multiculturalism are probably of most direct interest to readers of this journal. Lorne Sossin's study of the intersection of administrative law with the anti-terrorism bill is well researched and detailed. On the other hand, Ed Morgan's short contribution ("A Thousand and One Rights") pursues an analogy with *A Thousand and One Nights* that probably sounded a lot better from the rostrum than it reads in the isolation of one's study months after the event. Audrey Macklin's well-written and imaginative piece on "Borderline Security" develops an important point about how the "waning" of "geo-political borders" is being matched by a "displacement of their functions to other socio-legal processes and phenomena" with one of the consequences (reflected in the anti-terrorism bill) being greatly increased opportunities

for "heightened surveillance, harassment, ethnic profiling, and the like." Sujit Choudhry's study of ethnic and racial profiling in relation to section 15 of the Charter is well argued and serves to remind the reader (not necessarily intentionally) of the openness of Canadian constitutional adjudication and of the consequent choice that the judges will have when the legal challenges to profiling come before the courts. The piece ends with the "provocative" proposition that *everyone* should be subjected "to intrusive investigation both by airport security personnel and immigration officers" since this would "comport entirely with the equality guarantee." But equality (whether of misery or of joy) is surely not the sole criterion by which to judge policy making and the content of legislation.

The rest of the book also provides much of general interest to the concerned public-minded lawyer. Of exceptional interest are the comments from the Department of Justice with which the volume concludes. The immediacy of these contributions, reproduced apparently verbatim here, gives the reader a strong sense of the intensity of the moment out of which this book grew. The events of 11 September 2001 continue to reverberate around the democratic world, providing a purported basis for the reconstruction of the relationship between the individual and the state not only in Canada but also in the United Kingdom, the United States, and the European Union. Beyond the liberal democratic West, the leaders of many nations have fastened upon the threat of terrorism as an excuse for the extension of their personal power. Once not so long ago it was the "red scare" that posed the greatest threat to civil liberties and human rights. Now, after a brief liberal hiatus in the 1990s it is the seemingly unending "war against terrorism" that poses the latest, and perhaps greatest, challenge to liberal institutions.

The importance of this book lies in its attempt to engage head on with these fundamental issues. As Dean Daniels puts it in his introduction, these "essays ... contain important contributions to the very necessary democratic debate"

to be had about this Bill, with Canada's "robust democratic process" being one that "honours our free and democratic society and distinguishes it from those who would use violence and weapons, not essays and speeches, for political ends." The interesting question that the book can't answer is whether it did make an impact on the legislative events that followed it, in other words whether the combined power of the conference and these published essays was sufficient to sway decision makers in any way, or at least to inhibit their subsequent exercise of powers under the Act.

A society that claims to be open and democratic must be one in which the government of the day not only boasts about the fact that argument takes place but is also willing to respond flexibly when it hears points to which it can give no morally adequate reply.

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