Op-Ed

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Past IMLA President

Something to Think About

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In light of recent events . . . terrorist attacks, school shootings, etc. . . . from time to time our ILGL Listserv has been swamped with questions and comments regarding gun control and regulation as well as pressures on our police and municipalities nationwide. That's not surprising, given all of the national and local news of shootings, including the massacring of people gathered for events, religious or secular. The media is rife with calls by its talking heads, politicians, and others for more legislation, as if the bad guys obey any laws. I write this having been asked in times past to draft home rule ordinances requiring the owners of firearms to register them with the police department. What's to come of all of this legislation?

On March 23, 1775, Patrick Henry said, "I have but one lamp by which my feet are guided, and that is the lamp of experience. I know of no way of judging the future but by the past." Reading that brought to mind George Santayana's now famous quote, "Those who do not learn history are doomed to repeat it." So, to attempt a view of the future, let's take a look back. In my estimate there is no better gun-control experience from which we can learn than by briefly revisiting what happened in Germany in relatively modern times following World War I (1914-1918) and the German Revolution of 1918.

By 1919 Germany's infrastructure along with a devastating loss of human lives had been torn apart by the World War I and the military. In August of 1919, a German republic – the Weimar Republic (1919-1933) – was proclaimed and Friedrich Ebert, leader of the Social Democratic Party was confirmed the first President (serving 1919-1925) of the new German republic, ending the monarchy of Kaiser Wilhelm, II and The Second Reich. On June 29, 1919, Germany and the Allied powers signed the Treaty of Versailles, France. It took effect on January 19, 1920, and was the instrument that officially ended the war.

In 1919, the post-war (and post-revolution) government in Germany enacted gun control laws mandating that "All firearms, as well as all kinds of firearms ammunition, are to be surrendered" immediately. The German military enforced this law throughout Germany. On August 7, 1920, the German government enacted a more stringent rule, the "Law on the Disarmament of the People," which created the office of "Reichskommissar for Disarmament of the Civil Population" and required military weapons to be seized immediately and all citizens with knowledge of anyone hoarding ammunition or owning now outlawed weapons to give the names of those people to the Reichskommissar. On a personal note, one day shortly after the enactment of Law on the Disarmament the author's father, born and raised in Essen, Germany, was sitting with other young people on a five or six foot high masonry wall surrounding an Essen city square. Many of the gun owners in Essen had determined not to surrender their military weapons and were certainly not going to inform on one another. That day, with much fanfare, armed German military marched into town, rounded up all of those men, confiscated their arms and herded them into the square. A teen at the time, my father told me he became very uneasy and nudged his friend and they both slid off the wall, landing behind it. As soon as they hit the ground, the troops began firing their guns, mowing down and killing everyone on the wall and all in the square! [Somehow, a few years later in 1925, my father managed to escape Germany and immigrated to the United States to live with relatives.]

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George Washington

There's more. The next step for the complete disarmament of the German populace came in 1928. This law required all who possessed a firearm to carry a license, issued at the will of the government, provided an applicant could demonstrate a need for a firearm and could show he was reliable. The law ensured that the police had records of all firearm acquisitions and that the keeping and bearing arms were subject to police approval.

It should be noted here that in 1933, after his release from jail for having conducted his Nazi Party's failed coup of the government ten years earlier, Adolf Hitler re-built the Nazi Party and began to seize power by illegal means, took control of German government, ended the Weimar Republic and became the most powerful and infamous dictator of the 20th century. Hence, the era of 1933 – 1945 became known as "Nazi Germany" or the "German Third Reich."

In 1933, the Reichstag (parliament) enacted "The Enabling Act" permitting Adolf Hitler, the "supreme leader" of the Nazis, to make law without consulting parliament. Within a week of his having been given that power, Hitler issued a law inviting every German man to join German military units, including the infamous SS, and anyone who did not belong to one of these units and nevertheless kept a weapon or hid it would be viewed as an enemy of the national government to "be dealt with the utmost severity." Hitler could easily enforce his law because he knew or could determine the whereabouts of every registered gun, not just who owned them. Hitler said:

"The most foolish mistake one could possibly make would be to allow the subject races to possess arms. History shows that all conquerors who have allowed their subject races to carry arms have prepared their own downfall by so doing."

In sharp contrast to the above, George Washington said:

"A free people ought not only be armed and disciplined, but they should have sufficient arms and ammunition to maintain a status of independence from any who might attempt to abuse them, which would include their own government."

The Second Amendment of our United States Constitution reads:

"A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed."

Today, what about the statutes and home rule ordinances requiring the owners of firearms to register them? Merely requiring registration does not amount to infringement. However, I have often wondered, does every statute and/or ordinance that calls upon owners to register their firearms and/or carry a card really represent progress in controlling unlawful acts and ending gun violence? OR after almost 90 years, are we Americans taking the route of 1928 Germany? There is no question of the role gun registration had in facilitating disarmament of the German citizenry. These regulations resulted in ordinary German people becoming prisoners in their own country, which in turn cleared the way for a fascist regime to assume absolute power and with it a tyrannical government that led to World War II.

Something to think about. ML

John J. Zimmermann's career in Illinois local government law spans five decades. He served as chief legal officer for numerous municipalities in Northern Illinois, including Highland Park for 20 years and the Village of Mettawa for more than 30 years, has been lead counsel in some of the state's most significant economic development projects and annexation efforts, and is nationally recognized as an expert in local government and land use law. John is a past President of IMLA and in 2015 received the Charles S. Rhyne Lifetime Achievement in Municipal Law Award, the highest honor bestowed by IMLA in recognition of excellence in government law practice. He is admitted to all Illinois state courts, the Illinois Northern District and Seventh Circuit and the United States Supreme Court. John was a founding partner in Raysa & Zimmermann, which merged with Tressler LLP in 2012.

