

Law 'n' Order: Innocence and Security

Wednesday, January 24, 2007

Moira Rayner

A couple of weeks ago [Felipe Fernández-Armesto](#), Professor of global environmental history at the University of London and a member of Oxford's modern history faculty, had a very bad day.

On his first morning in Atlanta, Georgia, the slight, bespectacled, middle-aged Professor set off to the annual American Historical Association conference, and on the way learned that he had crossed a road in the wrong place. At first he didn't appreciate that the young man in a 'rather louche' bomber jacket who shouted this to him was a police officer, but Professor Fernández-Armesto thanked him for his advice.

When the self-described 'feeble foreigner' not only hesitated to produce the demanded [IslandAd] proof of his own identity but asked for proof of that of the man addressing him, this mild-mannered academic says his legs were kicked out from beneath him and he was wrestled to the ground by up to five large uniformed policemen.

He was then bundled into a paddy-wagon, handcuffed to a fellow felon and detained for eight hours in the local lock-up, where he was charged with failing to obey a police officer and physically obstructing police.

[Writing in *The Independent* on 13 January](#), Fernández-Armesto said he preferred the relative safety of the detention centre and the courtesy of its staff and his fellow inmates to the savagery of the streets and the Atlanta police.

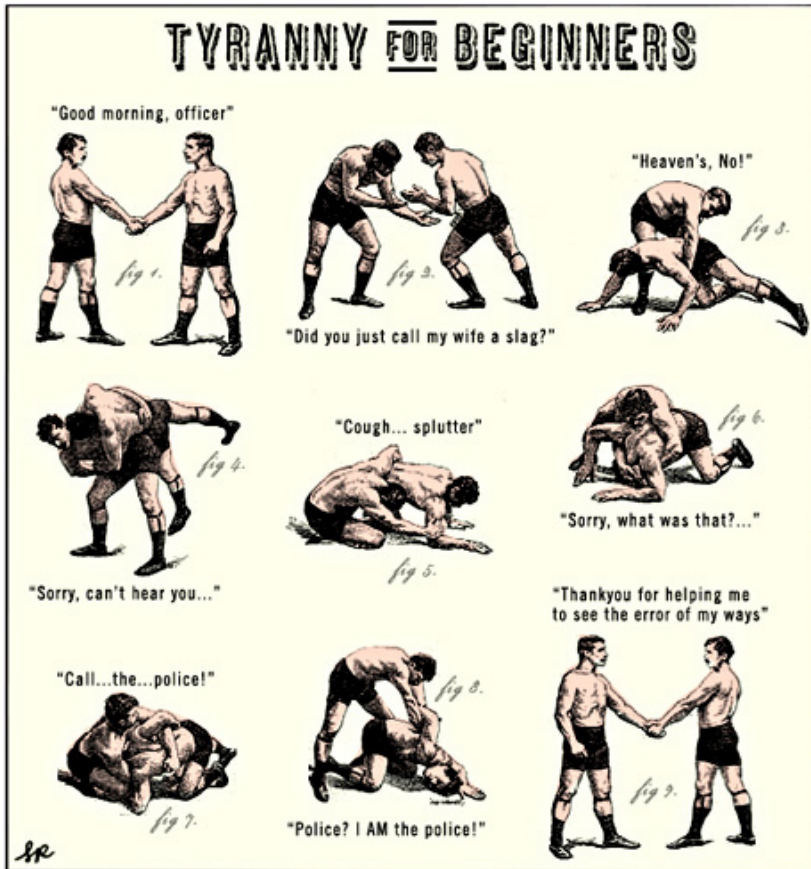
The following day, having acquired true knowledge of his host nation by being inside one of its jails (as Nelson Mandela once put it), the once-sheltered and somewhat naïve professor had his faith in the judiciary's role as 'the citizen's vital guarantee of peace and liberty' restored. The presiding judge engaged a more subtle interpretation of the law and the Executive's discretionary powers than that of his arresting officer, a Mr Leonpacher.

The prosecution dropped the charges and Judge Jackson treated his foreign visitor to a courteous reminiscence from the Bench of his recollections of the Old Bailey.

And so a nasty incident was over and done with, for the professor, but not for the Atlanta police, who are investigating the incident at the request of the local mayor.

[According to London's Telegraph newspaper](#), Officer Leonpacher told a local newspaper that he had not overreacted but claimed that he had 'used an excessive amount of discretion,' after the mild-mannered 56-year-old 'repeatedly refused to cooperate.'

What might we learn from this unpleasant event?



Thanks to [Sharyn Raggett](#)

Professor Fernández-Armesto concluded that Atlanta's police seem to be out of control and need to be re-educated; that, in a city teeming with serious crime, setting five of their number upon a feeble foreign jaywalker indicates that police law-enforcement priorities are warped; that properly constituted courts and enshrined civil rights are truly the only protection of the rights of the ordinary citizen against 'a rogue Executive and rationally uncontrolled security forces;' and that what happened to him in Atlanta was a microscopic instance of what is happening in the 'war on terror' in the wider world, in which the planet is policed by 'violent, arbitrary, stupid and dangerous force.'

Perhaps there are other lessons: that innocence is a weakness, not a strength when authoritative men take offence at its expression; that a person's status in other powerful networks, such as the legal fraternity, works to his advantage when a judge can empathise with a professor's outrage at his public

humiliation, contusions and bruises, perhaps more easily than that of a poor and unlearned man with the same feelings.

And, as I have also experienced, we might learn that there is often great kindness among the ‘raffish underworld characters’ in detention centres, and courtesy and compassion among their staff towards downtrodden, dopey, difficult and battered men and women. The criminal underworld and its custodians may be more civilised than law-enforcement authorities in public space peopled with the poor. In such spaces even ‘horrified witnesses’ to police ferocity, including some of Fernández-Armesto’s academic colleagues who watched — and seem to have photographed — the event, can be intimidated or dissuaded from exercising a moral, social duty to protect a vulnerable individual who is obviously being abused.

Those who have the State’s discretionary authority to use force for our ‘peace, order and good government’ are both privileged, and imperilled. Working in an atmosphere of threat, violence and apprehension, while having the authority to cut Gordian social knots using brute force, thickens the skin, coarsens men’s understanding, and can make bullies of men who are otherwise privately good parents and spouses and well-intentioned citizens.

It’s an old lesson: ‘Nature has left this tincture in the blood, /That all men would be tyrants if they could,’ Daniel Defoe, the *Kentish Petition*.

About the author

Moira Rayner is a lawyer and a writer, and Special Counsel to the consultancy Moira Rayner & Associates.
