

ERASING THE 'LAW AND ORDER' CAMPAIGN - PART I: REPEAL OF NO-KNOCK ENTRY

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Article IV of the Bill of Rights

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

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On January 26th of this year, Anna Majette was asleep in her apartment in Portsmouth, Va. She heard a noise as her door crashed in. As she rose from her bed, Frank Bonnewell, chief of Portsmouth detectives, stepped in front of her with a gun. "We've heard a lot about this house," he said.

The officer produced a search warrant. His men searched for heroin. Then Anna noticed that the warrant was issued for Apartment A and hers was Apartment J. "Sorry," said the officer. And they left.

The same kind of incident has now been repeated in dozens of cities across the country, from Tuscon, Arizona to Winthrop, Mass., from Miami, Florida to Whittier, California, from Rhode Island to the District of Columbia. Perhaps the most infamous case was in Collinsville, Ill., where two squads of narcotics agents made a mistaken entry into two homes, breaking furniture and terrorizing the inhabitants with abusive language and manhandling.

Until 1970, in order to search a house, police were required to obtain a search warrant from a magistrate. The warrant was issued for a specific address and itemized the particular objects being sought. This protection was given us by the Fourth Amendment. The colonists had suffered the experiences of British troops under color of a general warrant, ransacking an entire town in a search for tea, whiskey, or other contraband. The colonists learned by this the problem of unchecked executive power. Hence, they framed the Fourth Amendment which attempted to give the citizen the right to a home free from unannounced police inspections. The amendment not only necessitated a search warrant with a high degree of specificity, but also was interpreted to preclude searches except during the daylight hours. Law officers were also required to announce their presence by knocking on the door, and when greeted, were required to identify themselves and produce the warrant.

In 1969, under the guise of Law and Order, the Nixon administration proposed overturning this tradition by a section of the innocuous sounding "District of Columbia Court Reform and Criminal Procedures Act of 1970" entitled "Authority to break and enter under certain conditions." (Sec. 23-591)

"(a) Any officer authorized by law to make arrests, or to execute search warrants...may break and enter any premises...or otherwise enter to execute search or arrest warrants....

"(b) Breaking and entry shall not be made until after such officer... makes an announcement of his identity and purpose and the officer reasonably believes that admittance to the dwelling house or other building or vehicle is being denied or unreasonably delayed.

"(c) An announcement of identity and purpose shall not be required prior to such breaking and entry-

"(1) if the warrant expressly authorizes breaking and entry without such a prior announcement, or

"(2) if circumstances known to such officer...at the time of breaking and entry, but...unknown to the applicant when applying for such warrant, give him probable cause to believe that -

"(A) such notice is likely to result in the evidence subject to seizure being easily and quickly destroyed or disposed of,

"(B) such notice is likely to endanger the life or safety of the officer or another person,

"(C) such notice is likely to enable the party to be arrested to escape, or

... "(D) such notice would be a useless gesture.

Despite the large loophole for police discretion at (D), and despite the apparent conflict with the fourth amendment, Congress passed the law in the electoral campaign period of July, 1970, having assurances that this gross erosion of the Bill of Rights would only be used in the District of Columbia where the population was heavily black. Fortunately, on October of the same year, Congress found itself extending this "No-Knock Entry" rule to the entire country as Sec. 509 of the "Comprehensive Drug Abuse Prevention and Control Act of 1970." Again the cry of Law and Order, two weeks before the November election, pushed many of the 'liberals' of both houses in Congress into the safe corner of overtly voting against crime while covertly voting against the constitution.

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Unfortunately, wrecked homes and terrorized people are not the only results of such sloppy law writing. In April, 1972, Dirk Dickenson was shot in the back by a narcotics agent in Eureka, California, an area already rife with hostility between the 'long haired hippies' and the native 'sourdoughs.' Nineteen agents in two platoons "raided" Dickenson's homestead: one platoon came in by land, the other by air using an army Huey helicopter, both looking for a giant narcotics manufacturing lab. Unarmed and frightened, Dirk ran, and was shot in the back and killed. No lab was found.

One month later, in May, two policemen broke down the door at the home of Lillian Davidson. When they attempted to break down her locked bedroom door (she had previously been the victim of a burglary) Lillian grabbed her gun, shot through the door at what she presumed to be burglars, and killed one of the policemen.

Especially because of incidents like the latter, police are realizing the dangers of the law. One agent is quoted as saying "I've been on 200 or so raids and the no-knock is the scariest. You ask yourself what would you do if your door came crashing down at 3 a.m. and you had a gun. You'd let go, right? Personally, I think the danger might outweigh the value." Though an increasing number of police departments are laying aside this dangerous tool, one can imagine an immediate reversal if gun control legislation were to pass and No-Knock Entry were to be still on the books.

Fortunately, some Congresspeople are alert enough to the dangers to see the necessity of repealing this statute. The arguments being made for repeal are built on the excesses of narcotics agents rather than on seeing No-Knock as a Fourth Amendment abridgement. Happily, it is Senator Percy of Illinois (R) who voted for No-Knock in 1970, joined by Senator Ervin of North Carolina (D), who will introduce the repeal motion. Ervin was one of the Senators who voted against the bill as a perversion of the Constitution.

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Caught up short by the reckless activities of Federal law officers on narcotics raids, a Senate subcommittee under the chairperson of Senator Ribicoff (Conn.-D) held hearings on the problems of drug enforcement. Finding no less than ten Federal agencies performing drug enforcement functions, Ribicoff noted that:

"The rivalry between BNDD [Bureau of Narcotics and Dangerous Drugs] and Customs [agents] which, under controlled circumstances, might take the form of healthy competition and better detective work by each agency, instead has often degenerated into uncontrolled bitter feuding and the actual sabotaging of each other's investigations. Major cases, involving millions of dollars in smuggled heroin and some of the biggest traffickers, are rife with reports of BNDD and Customs agents spying on one another, prematurely seizing the other's evidence, arresting the other's informants, kidnapping the other's witnesses - all for the purpose of seeking credit for the "big bust."

Ribicoff introduced a "Federal Narcotics and Drug Abuse Enforcement Reorganization Act of 1973" (S. 942), in an attempt to curtail repetitions of Collinville. Senator Javits (N.Y.-R), ranking minority member, introduced a similar measure (S. 1138). This pressured the Nixon administration into introducing, in March, its own "Reorganization Plan No. 2 of 1973, Establishing A Drug Enforcement Administration in the Department of Justice." (That plan has since gone into effect.)

Then in April Collinsville happened, and Percy, who happens to be on Ribicoff's subcommittee, started holding hearings on his own. The result of these hearings is legislation to repeal Sec. 509 of the "Comprehensive Drug Abuse Prevention and Control Act of 1970." If enacted, the bill would eliminate the danger of this police state tactic lawfully happening in Illinois (and the other 49 states). In fact, the latest report is that the language may actually strengthen the Fourth Amendment prohibition and for the first time provide a way for victimized citizens to bring suit against the government. For the proposal amends the Sovereign Immunity Statutes, in order that the victims may recover financial losses.

HOWEVER, AT THIS WRITING, PERCY'S OFFICE HAS NO INTENTION OF REPEALING THE COMPARABLE SECTION OF THE "DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURES ACT OF 1970." THUS WE MAY FIND OURSELVES BACK IN THE SITUATION OF JULY 1970, WHEN NO-KNOCK RAIDS WERE ILLEGAL IN THE 50 STATES, BUT LEGAL IN D.C.

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This newsletter will reach you at a very critical time. Percy has not yet introduced his repeal motion but may do so at any moment. (The staff was working on the last minute revisions in the wording on Nov. 16th.) It is thus of utmost importance that Percy's office be called by November 28th, and told that you want to see No-Knock repealed for the District as well as for Collinsville.

#### PRESSURE POINTS TO BE USED:

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- a) Call Percy's office (225-2152) and ask them to send you a copy of Senate report 93-469, including Sen. Percy's separate views on No-Knock repeal. Ask to speak to Sen. Percy or Robert Sloan, the chief aid formulating the repeal statute, and indicate your concern for repeal of the No-Knock Statute affecting the District along with the Statute covering Collinsville.
  - b) Call Sen. Ervin's office (225-3154) and tell him or his Legislative Assistant for the Government Operations Committee the same. (Commend Ervin for voting against the bill in 1970.)
  - c) Call Sen. Eagleton (225-5721) urging him or his Legislative Assistant to contact Percy's office and indicate concern for repeal of the D.C. Statute. Eagleton is Chairperson of the Senate Committee on the District of Columbia and was one of the Senators who voted against passage of the D.C. bill in 1970. Tell him you appreciated his stance then.
  - d) Call Sen. Mathias (Md) (225-4654) and urge him to speak to Percy. He is also on the Senate Committee on the District of Columbia and also voted against the D.C. Court Reform Bill in 1970.
  - e) Call Delegate Fauntroy of D.C. (225-8050) and ask him to express your concern to Percy's office. Remind him that D.C. has no Senator to influence that vote so he must do double duty.
- II Write letters to all of the above and also to your newspaper editors.
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| Sen. _____             | Rep. _____                               |
| Senate Office Building | House of Representatives Office Building |
| Washington, D.C. 20510 | Washington, D.C. 20515                   |
- Editors addresses found under Newspapers in the Yellow Pages.
- III A small group of law students from Antioch School of Law has agreed to help us line up bi-partisan sponsors in both Houses. If you can help us with this emergency lobbying in the month ahead, get in touch with us.
- IV If you are a member of that special interest group, students, find out what the current practice is for campus police with respect to entering dorm rooms on a general search for drugs or whatever. Do they use warrants? The Campus Rights Committee of the University of Maryland is doing a special research project on this because of excesses of the police on their campus. They may be reached for further information by calling 454-2811 or 454-4588 or writing them c/o The University of Maryland, 1219 Student Union Building, College Park, Maryland 20742.
- V Help spread this information to other groups and other parts of the country. We have copies of this report available for the purpose, for sending to contacts you may have. Let us know how many you need (cost is 1.5¢ each.)
- VI Watch for our update in the next newsletter of January, 1974.