

Date: Tue, 27 Nov 2001 23:20:49 -0800
From: "dave "who can do? ratmandu!" ratcliffe"
Subject: "The F Word" by Michael Ruppert--Some of what is in HR3162

Greetings all,

The following fits the bill for what I have been looking for: namely, an analysis of *some* of **what-all** is now "the law of the land" as far as "H.R. 3162"--aka the "USA PATRIOT ACT of 2001", aka "Ashcroft's police-state bill", passed into law on October 26th--is concerned. For everyone's edification, <http://www.ratical.org/ratville/CAH/theFword.html> provides a hypertext copy of this print-out with linked references to the contents of all Sections and Titles alluded to below.

Of the serious and pernicious violations of the United States Constitution and Bill of Rights contained in H.R. 3162, I find the fact that there is no sunset clause especially ominous. Some will say, "Yes but the world has changed, and we now must trade in some of our liberty for security." Such reasoning could not be further off the mark. Periods such as today are *the most* critical moments when the right to dissent, the right to challenge and oppose the utterly inappropriate murder of *more* innocents and escalation of mass-violence perpetrated and accelerated by one's own government, and seek to stop the continuing spiral into the abyss of non-existence. Arundhati Roy distills the point:

Terrorism as a phenomenon may never go away. But if it is to be contained, the first step is for America to at least acknowledge that it shares the planet with other nations, with other human beings who, even if they are not on TV, have loves and griefs and stories and songs and sorrows and, for heaven's sake, rights. Instead, when Donald Rumsfeld, the US defence secretary, was asked what he would call a victory in America's new war, he said that if he could convince the world that Americans must be allowed to continue with their way of life, he would consider it a victory.

"The algebra of infinite justice", 29 September 2001
<http://www.ratical.org/ratville/CAH/ArundhatiRoy.html>

The F Word

by Michael C. Ruppert

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Fascism 1 ... a. Totalitarianism marked by right-wing dictatorship and bellicose nationalism. 2. Oppressive, dictatorial control. *The American Heritage Dictionary.*

November 20, 2001

My fellow Americans:

"On what legal meat does this our Caesar feed?" wrote *New York Times* Columnist William Safire as he blasted President Bush's November 13 emergency order permitting noncitizens the government has reason to believe are terrorists to be tried -- inside the U.S. -- by military tribunals. These trials may be held in secret and the prosecutors do not have to produce evidence if it is in the interests of national security. And the condemned may then be executed even if a third of the officers disagree. Safire categorized this as a dictatorial power to jail or execute aliens. Bush's proclamation is a nullification of the 6th Amendment to the U.S. Constitution. At the same time that Caesar Bush was announcing this edict, the Justice Department was announcing as reported in the AP on November 15 that it will not disclose the identities or status of more than 1,100 people arrested or detained since September 11th, nor will it continue to release a running tally of those detained.

As the anxiety level rises in you, you think, "Well, I'm a citizen so I don't have anything to worry about."

Try harder to refocus on your Christmas list, Harry Potter and your job.

On October 26th, a date which will live in infamy, the President signed the USA/PATRIOT act, officially known as HR 3162 . And you should well note that, according to Representative Ron Paul (R) of Texas as reported on November 9th by Kelly O'Meara ["Police State" --ratitor] of the *Washington Times Insight Magazine*, the bill had not even been printed and members of the House could not read it before they were compelled to vote on it. O'Meara wrote, "Meanwhile, efforts to obtain copies of the new bill were stonewalled even by the committee that wrote it." Most of its provisions have nothing to do with fighting terrorism. Under this so-called anti-terrorist measure:

- Any federal law enforcement agency may enter your home or business when you are not there, collect evidence, not tell you about it, and then use that evidence to convict you of a crime; (This nullifies the 4th Amendment to the Constitution). And, says the ACLU, it doesn't even have to be a terrorism investigation, just a criminal investigation. [Section 213, The Sneak-and-Peek provision].
- Any federal law enforcement agency may, if they suspect that you are committing a crime, monitor all of you internet traffic and read your emails. They may also intercept all of your cell phone calls as well. No warrant is required. (This violates the Fourth and Fifth Amendments to the Constitution) [Section 202 and 216] [See *FTW on Carnivore*, Vol. IV, No.2 April 30, 2001].
- The FBI or any other federal law enforcement agency may come to your business and seize any of your business records if they claim it is connected with a terrorist investigation -- and they can arrest you if you tell anyone that they were there. (this violates the First and the Fourth Amendments to the Constitution) [Title II, Section 501]
- The CIA can now operate inside the U.S. and spy on American citizens. And, as directed by AG Ashcroft on November 13, it is also permitted to share its intelligence files with local law enforcement agencies (and *vice versa*). The CIA has spied on Americans for decades, but the fruits of that spying have never been admissible in court. Now law enforcement will have the ability rewrite the intelligence as a probable cause statement, conduct an investigation and introduce it as evidence. This, from material that was collected outside the rules of search and seizure. (There goes the Exclusionary rule of the Fourth Amendment). [Titles 2 & 9].
- The foundation for an international secret political police agency is laid by allowing the CIA to receive wiretap information from any local agency and then share it with the intelligence services of any foreign country. [Section 203]

So now a darkness begins to sink over your consciousness. You are mad, first at me, and then you are not quite sure of what to be mad at -- but you know you're mad. Reaching through a guilty conscience you check with yourself and beg of your soul the permission to take the position that you never break any laws. None! You're a good citizen of the

Homeland, a good German -- I mean American. What can you do anyway?

Then I arouse your rage at me even further by telling you that Section 802 of HR 3162 defines domestic terrorism as activities that "involve acts dangerous to human life that are a violation of the criminal laws of the United States ... [and] appear to be intended to intimidate or coerce a civilian population; [or] to influence the policy of a government by intimidation or coercion".

Under this definition, the blocking of a driveway at a federal building or defending yourself when attacked by good Germans at a protest march while protesting these violations of the Constitution -- could instantly make you a domestic terrorist and subject to some of the stiffest penalties ever enacted into law.

Next, as you retreat further, covering your ears and mind, shutting out the crime that is being perpetrated by your government against you -- you will lash out at me and say, "Look Ruppert, I read the Bill. There's a Sunset Clause in it. All this stuff goes away after four years. It's just for the duration of the terrorist emergency."

Not so. Under Section 224 "(b) EXCEPTION- With respect to any particular foreign intelligence investigation that began before the date on which the provisions referred to in subsection (a) cease to have effect, or with respect to any particular offense or potential offense that began or occurred before the date on which such provisions cease to have effect, such provisions shall continue in effect." In other words, if the government says that their desire to burglarize, or wiretap you or search your files is part of an investigation that started before December 31, 2005, there is no sunset clause. This could be for a potential offense. What is a potential offense? Something you thought about? Something you might have thought about?

Now thoroughly uncomfortable you reach for more straw teddy bears. And I, like a hunter smelling victory, will close in on you with words that will both reassure you and make you a grown up. Upon reviewing HR 3162 Congressman Paul said to reporter O'Meara, "Our forefathers would think it's time for a revolution. This is why they revolted in the first place. . . . They revolted against much more mild oppression."

Mao once said that Revolution is not a dinner party. You squirm in your seat.

OK, The Congressman's noble words stirred you for a moment, made you think of Mel Gibson in The Patriot. But you realize that you're not Mel Gibson, you're out of shape, you have bills to pay, a vacation coming soon. Reaching again, you realize something. Wait! This is a law. It was passed. It's proof that there are checks and balances.

I'm coming to get you now.

Beyond The Law

On November 9th, Attorney General Ashcroft announced that he was ordering the Justice Department to begin wiretapping and monitoring attorney-client communications in terrorist cases where the suspect was incarcerated. This was not even discussed in HR 3162. That

same day Senator Patrick Leahy (D), Vermont wrote to Ashcroft. He had many questions to ask about what the Justice Department had been doing by violating the trust of Congress and assuming powers which were not authorized by either law or the Constitution. Leahy even quoted a Supreme Court case (*U.S. v. Robel* [389 U.S. 258 (1967)]):

[T]his concept of "national defense" cannot be deemed an end in itself, justifying any exercise of . . . power designed to promote such a goal. Implicit in the term "national defense" is the notion that defending those values and ideas which set this Nation apart. . . . It would indeed be ironic if, in the name of national defense, we would sanction the subversion of one of those liberties . . . which makes the defense of the Nation worthwhile.

Leahy asked Ashcroft by what authority had he decided on his own and without judicial review to nullify the Fifth Amendment to the Constitution. He asked for an explanation and some description of the procedural safeguards that Ashcroft would put in place. He asked Ashcroft to appear before the Judiciary committee and to respond in writing by November 13.

His answer came a little late.

On November 16, Patrick Leahy received an anthrax letter. And, as of this press time, Ashcroft has not responded in writing.

I've got you now.

Moving up the ladder we come to the Vice President, Dick Cheney. *The Washington Post* reported on November 9 that all summer a major Constitutional clash had been brewing as the former head of oil giant Halliburton refused to surrender to Congress' investigative arm, the GAO, records from his energy task force. The *Post* story said, "Comptroller General David M. Walker described the fight as a direct threat to the GAO's reason for being, a separation-of-powers issue that would determine whether the legislative branch could exercise the oversight role envisioned by the founding fathers." But the Sept 11th attacks have changed all that. A planned suit by the GAO against Cheney to get the records of his task force on oil has been put on hold. Cheney's violation of the law goes unchallenged in the goose-stepped march of manufactured polls showing support for the administration. Congressman Henry Waxman (D), CA has blasted Cheney on constitutional grounds but there's little else he can do in the current climate.

And now we come to your President, the guy we started with, by asking what legal meat he eats. Apparently he eats anything he damned well pleases. On November 1st, after several months of delays, George W. Bush broke the law himself by changing an Executive Order and declaring that in this national emergency he was going to prevent the release of papers from the Reagan presidency, even though release is mandated by The Presidential Records Act of 1978.

Of what use could these papers be to Osama bin Laden?

These papers would probably shed glaring light on the criminality of the Reagan-Bush (the elder) years of Iran-Contra, the savings-and-loan plundering of American taxpayers and the hand-over-fist drug dealing by the CIA at the direction of G.H.W. Bush. But now, in

violation of the law, you will never see them. Nor will you likely ever see the papers from the 89-93 Bush presidency, or the Clinton years not to mention those of the current administration. What a convenient way to cover up criminal actions.

Representatives Jan Schakowsky (D), Ill, and the ever-brave Henry Waxman rose to the challenge and wrote Bush a letter on November 6th. They said in closing, "These provisions clearly violate the intent of the law. . . . The Executive Order violates the intent of Congress and keeps the public in the dark. We urge you to rescind this executive order and instead begin a dialogue with Congress and the public to determine the need for clarification of this law."

Any bets as to who gets the next anthrax letter? Have you noticed that only Democrats have been getting them?

So now you retreat, your decision has been made. Do nothing. This will all go away. In a last gasp of intellectual, pretzel-bending logic you think, 'Wait! We still have the Supreme Court.'

This is the same Supreme Court that illegally handed George W. Bush the 2000 election. This is the court that stopped and delayed hand counting long enough to prevent the final results from being known. Those results as buried by the major media in horrendously dishonest stories released last week were written as supporting the Supreme Court's decision to stop the recounts. And based on that decision, the media recount gave Bush the victory. But, as noted by *EXTRA!* Editor Jim Naureckas in a November 15 *Newsday* story, the media found that it was quite possible, by examining rejected ballots, to determine the clear intent of the voter. Yet none of these ballots were included in the media recount and all of the media organizations recognized that, had those ballots been counted, Al Gore would have won.

As constitutional lawyer Mark H. Levine noted in a December 20, 2000 editorial, what the Supreme Court did was to create a one-case only exception where the clear intent of the voter as dictated by Florida law was no longer applicable standard. By stopping the hand count and overturning the Florida Supreme Court's correct reading of its own law, it delayed the recount long enough to force a crisis where it could overrule Florida and deliver the election to Bush while thousands of ballots went uncounted.

So much for the Supreme Court.

One of the greatest decisions to ever come out the Supreme Court when it was one was rendered in 1866 after the civil war. The case in question was Abraham Lincoln's suspension of the writ of habeas corpus in arresting protesters and rioters. As recently quoted in an eloquent November 15 article by David Dietman, an attorney and Ph.D. candidate from Erie Pennsylvania, the Court stated:

The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times, [71 U.S. 2, 121] and under all circumstances. No doctrine, involving more pernicious consequences, was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government. *Ex parte Milligan*, 71 U.S. 2 (1866).

So all you have left to put your faith, or your fear, in as you see it is the President. You have no faith in yourself, no faith in God, no trust in your fellow citizens and no willingness to experience discomfort. You fail to praise, support and uplift all of the courage that is beginning to reveal itself around you. You draw your blinds and wave your flags hoping for divine intervention before your name or your job comes up on the list. You are a good German, like the Germans who followed Hitler and allowed him to start a war that killed hundreds of millions of people.

And when it is all over, when they come for me, when they come for you, when they come for your job -- when history sheds its inevitable light on the criminals that today rule our country -- you will say, I didn't do anything wrong.

Oh yes you did.

Oh yes you did.

Mike Ruppert

From The Wilderness (www.copvcia.com)

To read Kelly O'Meara's "Police State" (11/9/01) article on HR 3162 please go to:
<<http://insightmag.com/main.cfm?include=detail&storyid=143236>>