



Obama's secret law in the Patriot Act

The Lowell Sun

Updated: 06/11/2011 03:03:14 PM EDT
By Nat Hentoff

When Congress rushed to pass the Patriot Act on Oct. 21, 2001, I reported in The Village Voice: "This will be one of our severest tests yet to rescue the Constitution from our government." And this test becomes, daily, more dangerously difficult.

When, in another rush on May 26, Congress reauthorized the Patriot Act for four years and extended three of its most severe reductions of our individual constitutional liberties, the Paul Revere of our time, John Whitehead, tried to awaken a citizenry that was otherwise preoccupied with a quicksand economy:

"The Patriot Act drove a stake through the heart of the Bill of Rights, violating at least six of the 10 original amendments -- the First, Fourth, Fifth, Sixth, Seventh and Eighth amendments -- and possibly the Thirteenth and Fourteenth Amendments, as well." If you look them up, you'll feel the urgency of Thomas Paine's warning: "It is the duty of the patriot to protect his country from its government." Paine would have a lot to say about President Barack Obama and the mostly lockstep Democrats in Congress, not to mention most Republicans.

John Whitehead (Rutherford.org) further summarizes the official Bush-Obama un-Americanism:

"The Patriot Act ... redefined terrorism so broadly that many non-terrorist political activities such as protest marches, demonstrations and civil disobedience were considered potential terrorist acts, thereby rendering anyone

desiring to engage in protected First Amendment expressive activities as suspects of the surveillance state."

The ACLU stingingly puts what awaits us this way: "Four More Years Of Unchecked Spying, Surveillance and Secrecy." (aclu.org, May 27, 2011)

Back in October 2001, David Obey, then a Democratic congressman from Wisconsin, voted against the Patriot Act. He knew what was coming when he said bitterly: "Why should we care? It's only the Constitution." ("The War on the Bill of Rights and the Gathering Resistance," Seven Stones Press, 2004).

Even now, however, there are a few rare independent congressional Democrats, notably on the Senate Intelligence Committee, where they insistently care about our regaining personal privacy. Taking the lead is Oregon Sen. Ron Wyden, a member of that committee for several years.

On May 26, on the floor of the Senate, before the Patriot Act was extended, Ron Wyden said: "I want to deliver a warning this afternoon: When the American people find out how their government has secretly interpreted the Patriot Act, they will be stunned and they will be angry." (This quote was sent to me by Wyden's Washington office.)

Backing Wyden was another committee member, Mark Udall, Democrat of Colorado: "Americans would be alarmed if they knew how this law is being carried out." (New York Times, "Senators Say Patriot Act Is Being Misinterpreted," May 27.)

Wyden, after he helped to file an amendment, added this: "The fact is anyone can read the plain text of the Patriot Act, and yet many members of Congress have no idea how the law is being secretly interpreted by the executive branch, because that interpretation is classified."

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This patriotic amendment requires Attorney General Eric Holder to "make public the U.S. government's official interpretation of the Patriot Act." The immediate focus is on Section 215 of the Patriot Act.

As he explained to me, and in other statements, Wyden (as a member of the Senate Intelligence Committee) does know some of this secret law, but cannot yet reveal it publicly because these hidden interpretations are classified.

Now dig this: Wyden's amendment was never voted on during the debate before the Act's extension. This tells us that what is being done to our constitutional liberties and rights has become yet another Obama administration "state secret." As if We the People were the enemy.

Ignoring the Wyden amendment, the Senate extended Section 215 of the Patriot Act, which gives the government the power to get all kinds of very private and personal information about us without having to show any connection to terrorism in what they collect.

This continual spying on Americans makes us subjects of the administration, not free citizens. And that's why the ACLU on May 31 filed a Freedom of Information Act request "demanding that the Justice Department release information about the government's use and interpretation of Section 215." (aclu.org, May 31, 2011)

What else is Obama hiding from us as if we were his colonists? Says Jameel Jaffer: "The secrecy surrounding the government's use of new surveillance powers is unwarranted and fundamentally antidemocratic."

Do you care whether this nation will ever be a true America again? Will Obama's secret law turning the Patriot Act into an undeclared war on the Constitution be a vital factor in the 2012 elections? I sure wish Ron Wyden were a candidate for the presidency.

Will there be a presidential candidate for the Constitution?

Nat Hentoff is a nationally renowned authority on the First Amendment and the Bill of Rights. He is a member of the Reporters Committee for Freedom of the Press, and the Cato Institute, where he is a senior fellow.

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