

Red Alert! What's left of your privacy is about to go to the dogs.

We can only hope the Canadian courts don't follow the recent United States Supreme Court ruling in *Illinois v. Caballes*. I mentioned it in the last issue. What I didn't mention was the tragic holding of the Court that when a drug dog sniffs you, it's not a search. The reason is simple, if not simple-minded: drug dogs only detect those things you have no right to possess. So, if the dog alerts to your car, your shoe, your suitcase, your motel room or your house, that's enough to search it.

What's the problem? After all, they only alert when you've got something to hide, right? In other words, you have no reason to expect privacy in your private places if we're not committing crimes in them. And we are going to trust the police to make sure their dogs (the dogs they live with; the dogs whose "alerts are so subtle that only the handler can detect them) only detect illegal substances? No need for judges? In the words of the great Justice Douglas:

"We are not dealing with formalities. The presence of a search warrant serves a high function. Absent some grave emergency, the Fourth Amendment has interposed a magistrate between the citizen and the police. This was done not to shield criminals nor to make the home a safe haven for illegal activities. It was done so that an objective mind might weigh the need to invade that privacy in order to enforce the law. The right of privacy was deemed too precious to entrust to the discretion of those whose job is the detection of crime and the arrest of criminals. Power is a heady thing; and history shows that the police acting on their own cannot be trusted."

Seems like we rejected that theory about the time we decided to have a constitution, didn't we? Looks like the debate has been re-opened. A good example of why liberty and freedom are always unfinished business. But I digress. . . .

A few state courts in the U.S. have been offended by the thought of police dogs sniffing freely among us, detecting, of course, only those things which are prohibited. *Auschwitz?* 1984? In Washington, for example, *State v. Dearman* rules that a warrant, based upon probable cause and approved by a neutral magistrate, is required before a drug dog may be applied to a private residence. No such restraints exist upon the Federal Government.

And there is one other little problem. The courts don't want to talk about it. The cops are in denial. Truth is, dogs have lots of false alerts. The police will tell you that when the dog alerts and nothing is found, that's not a false alert. It means there was something there earlier. How do they know? Because the dog alerted. If there is a flaw in that logic, the police don't seem bothered by it. But the history of drug dogs in the U.S. shows a wealth of false alerts. Some were explained by the scent of another dog, a dog in heat, a woman in menstruation, or the presence of food. Some can only be explained by the increasingly clear fact that drug dogs, while they are good at detecting scents, are, in

practice, nothing more than a Ouija board serving the wishes and the wishful thinking of their masters.

Bad dog. No doughnut. But what about the consequences of a false alert? Arrest, a body search, a search of your house by lunatics in SWAT uniforms who announce their entry with a percussion grenade? And then there's your privacy. You were innocent? That just means they had to search you really thoroughly before giving up. ("Can't find anything on this one. Maybe she's got a keester stash.") Seems a bit "unreasonable" to me.

So, what can you do? First, I think it's time you participated in the political process. Better tell your elected representatives just how terrified you are of a society where police dogs roam freely. Next, do a bit of research on smell control. Baggies and plastic wrap don't stop smell. Charcoal filters and ionizers won't fool a dog. But, there may be an answer. Folk legend from Mexico to Alaska has it that cayenne pepper sprayed as a liquid, (some say mixed with pot) seems to be a strong deterrent to naughty conduct by bad dogs.

Pepper is good for you. I've been told that enough of it properly applied can even lower your blood pressure.

Next Issue: Warrantless searches.