

## OPERATION GREEN MERCHANT: AN OVERVIEW

During the 1980s, indoor marijuana production in the US blossomed, in part because of the government's efforts to seal America's national borders, and in part because growers and smokers wanted more consistent, exotic strains of pot. Among the keys to the success of the burgeoning industry were advanced hydroponics and lighting systems. The primary sources of information on the latest techniques and equipment were the pages of both HIGH TIMES and Sensimilla Tips magazines. Which didn't go unnoticed by the government.

Green Merchant was the name given the federal operation which sought to shut down the industry. It began in 1988, became public in 1989, and, though it has officially been discontinued, the words Green Merchant continue to come to mind when one thinks of people who get busted because they've purchased indoor gardening equipment.

HIGH TIMES, one of the focal points of Green Merchant, covered the operation in a series of more than a dozen news stories over a two-year period. The following are excerpts from several of those stories. `window.google_render_ad();` &nbsp; INSIDE OPERATION GREEN MERCHANT: WHO GOT HIT AND HOW THEY'RE FIGHTING BACK

(Jan. &lsquo;90 HT)

On Thursday, October 26, 1989, the Drug Enforcement Agency conducted raids on retail stores and warehouses specializing in indoor garden supplies in 46 states, in an attempt to shut down the indoor production of marijuana in this country. The raids were the culmination of a DEA plan, dubbed &ldquo;Operation Green Merchant,&rdquo; which began in 1987 as the brainchild of DEA agent Jim Stewart.

Described by NORML as &ldquo;a publicity stunt,&rdquo; the Black Thursday raids resulted in the confiscation of books, merchandise and records from more than three dozen stores and the padlocking of several others. Eleven store owners were arrested and more arrests were anticipated, the DEA announced in a press release issued that day.

According to U.S. News & World Report, Stewart, who was unavailable for comment to HIGH TIMES, conceived Operation Green Merchant while thumbing through a copy of this magazine. Struck by the number of ads for both indoor gardening supplies and marijuana seed banks, he began mapping out a plan for undercover agents to visit garden centers and request information regarding the growing of pot. The responses of the store owners or their employees were, in some cases, revealing enough to give the DEA the legal authority to &ldquo;subpoena United Parcel Service records from 29 of the equipment firms,&rdquo; U.S. News & World Report said. The records produced more than 20,000 names of customers who had done business with those supply stores.

Treating each customer as a potential marijuana grower, the DEA followed several hundred of those &ldquo;leads&rdquo; and arrested more than a hundred indoor growers. Those growers's illegal use of garden equipment provided the legal leverage necessary to conduct raids on the stores themselves. In addition, all customer records, mailing lists and shipping invoices were seized from every store raided. Those lists have produced tens of thousands of additional &ldquo;leads&rdquo; for the DEA and local authorities to follow.

Aside from the untold damage done to the raided businesses&mdash;both in terms of financial loss and damage to their reputations&mdash;Operation Green Merchant has raised several legal issues, first and foremost of which is whether the government has the right to seize records from legal businesses for the purpose of investigating customers whose names appear on said records.

Secondly, since nearly all of the stores involved in both the initial investigation and the subsequent raids advertised in either HIGH TIMES or Sinsemilla Tips, there is the question of First Amendment infringement. The gardening equipment at the root of the operation can, after all, be purchased from literally thousands of nurseries, garden supply centers and electrical supply outlets throughout the country, yet apparently none of these businesses were targeted in any stage of Operation Green Merchant. While the DEA officially denies the allegation that one of the main motives of the operation was to close down HIGH TIMES and Sinsemilla Tips, when reached at the Justice Department in Washington, the DEA operator responded to this reporter's announcement that he was with HIGH TIMES by saying, &ldquo;What? Are you still in business over there?&rdquo;

Thirdly, hundreds of people whose names appeared on the various confiscated lists have been contacted by either the DEA or local authorities and asked to consent to searches of their homes for the purpose of investigating whether or not marijuana is being grown on their premises. HIGH TIMES contacted several of these people; nearly all of them were too frightened to speak with us. However, several admitted that they had consented to &ldquo;gentle&rdquo; searches by the authorities, rather than forcing them to get search warrants, which would have lead to much more thorough searches of their homes.

Beyond the legal questions arising from this operation, several moral questions must be addressed as well. For the authorities to arrest the shop owners or padlock shop doors, effectively shutting them down by seizing merchandise and business records for an indefinite period of time, is government whimsy at its most outrageous. (At presstime, the store owners had no idea when their confiscated material would be returned.) And for the government to suspect that everyone doing business with a particular type of store is involved in illegal activity&mdash;when the store itself deals exclusively in legal products&mdash;is McCarthy-style witch-hunting at its worst.

It is too early to project what the outcome of the legal questions regarding Operation Green Merchant will be. Several of the store owners contacted were planning legal action and others have already begun proceedings. NORML, which is acting as a clearinghouse for all affidavits and warrants connected to the raids and arrests made on October 26, hopes to prove that there was an illegal pattern in the way this operation was and continues to be carried out. The American Civil Liberties Union is also investigating the matter, according to Lauren Siegal at the ACLU's national headquarters in New York. &ldquo;We're looking into this as a civil liberties case,&rdquo; he said. &ldquo;The way this raid was apparently conducted raises very serious civil liberties questions.&rdquo;

Below are comments made by some of the store owners and others affected by this operation. HIGH TIMES will continue to investigate Operation Green Merchant as it unfolds.

UNIDENTIFIED EMPLOYEE&mdash;WORM'S WAY, BLOOMINGTON, INDIANA:

&ldquo;Well, they came in here that Thursday and the owner, Martin Heydt, was alone. They came into the store, his home and into the basement of the store simultaneously. They had a subpoena which indicated that they could remove all business and employee records. While in the house, they searched Martin's daughter's room and dresser drawers. But no one was arrested. They just confiscated the records. Martin has a lawyer filing a petition to retrieve those records. We're still open for business and plan to stay that way until they tell us that we can't.

&ldquo;Some of our customers have even had visitors from the DEA, who asked whether they did business with Worm's Way and if they could look around. Some said yes, some said no.&rdquo;

JOSEPH HOBERMAN, ORCHID GROWER&mdash;RALEIGH, NORTH CAROLINA:

&ldquo;The State Bureau of Investigation came to my home. They said they had evidence that I was growing marijuana and asked for a consent search to see whether it was true. I told them they were welcome to come in and look around; they were very polite, not touching anything, and then they left.

&ldquo;When it was over I thought about the whole thing, particularly the implied threat that if I let them in they would be nice, but that if I made them get a warrant&mdash;regardless of whether I was guilty or not&mdash;they were going to destroy my home. That was the impression I had and they didn't do anything to dispel that belief. This implied threat changes the ground rules: if you stand up, you deserve to have your house wrecked, whether you're a criminal or not.

&ldquo;At first I thought I was being set up, so I called the DEA and was told that it wasn't true. It turned out that I'd had three shipments from Applied Hydroponics&mdash;all for a defective light meter which was being exchanged&mdash;and they'd gotten my name from a mailing list. I had joined the American Orchid Society at the beginning of the year and got their ad (Applied Hydroponics&rsquo;) from the American Orchid Society bulletin. So the issue here isn't marijuana at all; it's Fourth Amendment stuff, consent searches. And this experience has sort of activated me. I've often felt that I should be more active in trying to get marijuana legalized, but I just kept quiet. This experience has made me decide to take a public stand.&rdquo;

JEFF EDWARDS&mdash;HOME HARVEST GARDEN SUPPLY, WOODBRIDGE, VIRGINIA:

&ldquo;Our main focus here has always been food production. We saw what people were doing with other plants, but there's a limited number of those people gardening. In the gardening population in general, there's well over 40 million people who garden as a hobby, and another 15 million who would garden if they had a place to garden. Our focus is to give those 15 million people the avenue to actually produce food and flowers in their home all year round.

&ldquo;The reason we weren't visited is that we run a very clean shop here. If you ask me about something you shouldn't, I ask you to leave. It hasn't happened often, but it has happened. I'm sure that we were checked out at some point during Green Merchant, but we run a very legit operation here.&rdquo;

BILL ROSS&mdash;EAST COAST HYDROPONICS, STATEN ISLAND, NEW YORK:

&ldquo;Four DEA officers came into my store with a Federal search warrant. They searched my store for marijuana and took my records and invoices. They were professional. They didn't point guns at me. I was very happy about that.

&ldquo;As to how they happened to come here, well, I know they had the UPS records before they came. I know that because they went to my sister's house before they ever came to the store. She's the white sheep of the family. I sent her some fertilizer several months ago&mdash;via UPS&mdash;and when they showed up at her place, they asked her if she was growing pot. They tried to get into her house without a search warrant, but she wouldn't let them in.

&ldquo;Anyway, I guess they'd visited my store at some point and I'd told them how to grow tomatoes. Supposedly, another DEA man from out of town told these guys that tomatoes are a word for dope. So order a bacon, lettuce and dope sandwich. As to the closing of some stores, there were a few bad apples, obviously. I'm mad at the guys that were doing things wrong. They put a bad shadow on our whole industry. It's a shame it happened; the industry was just coming out of its infancy. I go into this business so people could grow their own food, so they could eat food without any chemicals in it.

&ldquo;But I didn't do anything wrong, goddamn it! And now they've got my records, and when I ask why, they say they're holding them for evidence. I say evidence for what? I didn't do anything! I think they're just trying to force me out of business. &rdquo;

J.P. JONES &mdash; PARADISE HYDROPONICS, EUREKA, CALIFORNIA

&ldquo;About 15 of them served me with a warrant to search my store. They seized any books and videotapes related to marijuana as well as my business records and customer mailing lists. While the search was going on here, they said they also had a warrant for my house and told me to give them the keys or they'd break the door down. I told them my 15-year-old daughter was home alone after school and not to do anything to traumatize her. Then I gave them the keys and they completely searched my house.

&ldquo;They took my records, my computer and my mailing lists. They also took Ed Rosenthal's and Jorge Cervantes' books, and another book which

had nothing at all to do with marijuana. The Constitution says you can have these books, but the FBI says no, so they come in and seize them.

“They also had the press here with them—a local TV crew and a local newspaper. The newspaper wrote that no one comes into this store except marijuana growers. They must not have known that the local university, the local high school, the library, retired couples and nursery schools all buy things here. I have one old couple who called up to find out if they had anything illegal in their home by having a single unit. That’s how scary the newspaper story was.

“It’s just a big publicity thing and it worked for what they wanted. They’ve scared customers away. But they found nothing illegal. I have never told anybody how to grow marijuana.”

THOMAS WILLIAM, GROWER—SPRINGFIELD, MISSOURI

“On Thursday, November 2, at about 3:30 PM, several unmarked cars drove up to my house. My wife started to close the door, but they told her not to, that they had a search warrant. She asked to read it; they told her to open the door or they’d kick it in.

“About eight or ten of them—only two from the DEA, the rest local—entered the house and immediately handcuffed my wife. Then called me at work and asked whether I’d like to come home. As soon as I did, they arrested me.

“I had some plants growing in the basement. I had four mother plants about 1-1/2-feet high and some seeds in cups which hadn’t germinated yet. The newspaper account said I had 19 plants, so I guess they counted the seeds. I also had a little personal stash in the refrigerator. Altogether, I guess it came to less than an ounce.

“They totally trashed my house. They pulled dresser drawers out and dumped them, they turned the couch over; they stapled their cards to my woodwork and kicked in walls I’d just built to finish the basement. They threw my family photos on the floor!

“They charged my wife and me with cultivation of marijuana. It cost me \$4,000 to get us out of jail; I won’t get that back. But I think the DEA was disappointed to see there wasn’t much here. They did seem thrilled to find some copies of HIGH TIMES and the Seed Bank Catalog.

“I don’t know where they got my name. They said I’ll find out at my preliminary hearing. I order legitimate supplies. I don’t know what the probable cause would be for this. And the way they trashed this place for less than an ounce of pot? Man, they didn’t have to do that!”

DANIEL KATZ—WILLIAM BENNETT’S OFFICE:

“The first thing I’m going to say is that most of your information will come from the DEA. They carried out that operation and we, as a policy office, don’t deal with operations. My knowledge of this (Operation Green Merchant) is limited to what I’ve read in the papers.

“We develop a national direction on thinking about drugs, a national strategy, but we don’t suggest the operations. In answer to the question of whether this was part of the Bennett drug policy, it’s not. As I understand it, this operation was done as part of the DEA mission, which is to combat drug violations, and that’s what this is.

“We don’t offer specific opinions on specific operations which we have nothing to do with. The DEA doesn’t go around commenting on our work and we don’t comment on theirs.”

LAUREN SIEGAL—ACLU:

“The fact that the government is apparently trying to get hold of the lists of people who buy from these kinds of stores on the apparent assumption that anybody who goes to a garden supply store might be growing pot in their closet—as opposed to radishes or tomatoes—harkens back to a McCarthyite way of looking at the drug problem.” HOLLAND’S SEED BANK BUSTED (Oct. 90 HT)

Nevil Martin Schoenmakers, operator of Holland’s Seed Bank, was arrested in Australia on July 24, at the request of the US government. At presstime, extradition proceedings were underway to transport Schoenmakers to Federal court in New Orleans, where he will face charges of violating the Controlled Substances Act.

The 44-count indictment alleges that Schoenmakers, “in concert with at least five other persons,” knowingly distributed, through the US Postal Service, a total of 1,921 seeds to DEA agents and marijuana growers in the New Orleans area from 1985 to 1990. The indictment also alleges that Schoenmakers, an Australian native who makes his home in Holland, “did knowingly...manufacture (grow) more than 1,000 marijuana plants, a Schedule 1 drug controlled substance.” If convicted on all counts, Schoenmakers (as well as a second, unnamed “co-conspirator”) faces a possible life sentence.

Schoenmakers’ indictment is closely tied to the ongoing grand jury investigation of HIGH TIMES being conducted by US District Attorney John Volz. The government has been seeking to determine whether or not conspiracy charges can be brought against the magazine for allowing advertisers to offer products through the mail which may later have been used in indoor-growing operations in the New Orleans area.

Both the indictment against Schoenmakers and the HIGH TIMES probe grew out of last year’s Operation Green Merchant. That operation—aimed at shutting down the burgeoning indoor marijuana growing industry—used United Parcel Service records to trace deliveries of indoor growing equipment.

According to sources inside the Justice Department, the three key targets of Green Merchant were Sinsemilla Tips, the Seed Bank and HIGH TIMES. Sinsemilla Tips stopped publishing last January as part of a plea-bargain deal made with Tom Alexander, its publisher and editor. The Seed Bank has also recently closed down operation. HIGH TIMES remains the thorn in the government’s side. UPDATE: THE SEED BANK (Dec. 90 HT)

Nevil Schoenmakers, operator of Holland's Seed Bank, remains in an Australian jail as extradition proceedings which would bring him to the United States continue.

Schoenmakers' lawyers are fighting the extradition on the grounds that marijuana seeds contain no cannabinoid substances and therefore should not be considered marijuana. Schoenmakers' sister Vicky Ellers told HIGH TIMES from her home in Perth: "Since the whole case revolves around seeds, the lawyers are hopeful that we might be able to get the case thrown out of court here in Australia, which would prevent the extradition."

Michael Kennedy, a New York attorney familiar with this area of the law, commented, "Seeds are legal in Holland. They're not psychoactive until germinated. I don't think (Schoenmakers) broke any laws." About the extradition battle, Kennedy explained, "It's primarily a political matter. The question is: will Australia back down?"

At presstime, Schoenmakers was awaiting a bail hearing on October 22. His immediate goal was to be released on bail until the extradition issue could be resolved.

Schoenmakers would be pleased to learn that HIGH TIMES readers have given him a commanding lead in the voting for Counterculture Hero of the Year.

Steve Bloom contributed to this story. UPDATE: TOM ALEXANDER, Publisher of Sinsemilla Tips (Dec. '90 HT)

In the October '90 HIGH TIMES, I erroneously reported that Sinsemilla Tips had ceased publication as a result of a plea bargain Tom Alexander, the magazine's publisher and editor, made with the US government ("Holland's Seed Bank Busted"). Alexander has informed me that he never made a deal with the government in connection with the DEA's 1989 raid of his garden-supply store in Corvallis, Oregon.

Recalling the raid, part of Operation Green Merchant, Alexander explained, "They seized strip irrigation, lights and other items. What they basically did was arrest the merchandise. They never arrested me or charged me with anything.

"They said that since I had a store which supposedly sold marijuana growing equipment it constituted a criminal conspiracy. If the fuckers had a criminal conspiracy case they would have come and charged me, but they didn't. Nonetheless, for two months they were hanging that over my head.

"There was no agreement made whatsoever in relation to Tips. No type of overt pressure or coercion was used; no plea of any sort that I stop Tips. The only agreement I made was that I wouldn't contest them stealing my merchandise if they would just get off my back. Fighting the civil forfeiture of the store's merchandise was going to cost \$20,000. I looked at those numbers and decided it wasn't worth it. I had wanted to sell the store for two years by that time. Instead of selling it, I had it stolen (by the government). They used the law as a tool of extortion. It wasn't worth my remaining assets to fight these assholes."

Alexander added that "after 10 and-a-half years Tips will be dead. It's no longer financially viable. If it was, I'd still be doing it." Alexander will continue to publish The Growing Edge. For copies of either publication, call: 1-800-888-6785.

#### GREEN MERCHANT: THE FIRST 18 MONTHS

(May '91 HT)

When Operation Green Merchant first broke 18 months ago, no one was sure of where it was going or what the extent of it would be. We knew that its ostensible aim was to shut down this country's indoor marijuana cultivation industry, and that the operation was designed to link the sources of information regarding indoor marijuana cultivation—HIGH TIMES and Sinsemilla Tips—with indoor growers in a criminal conspiracy. The connection between the two was thought to be the gardening centers that advertised in both magazines.

The logistics of the operation were these: during a two-year period beginning in late '87, the DEA sent agents to 81 stores and mail-order houses specializing in indoor-gardening supplies, asking for information regarding the growing of marijuana. While most store owners refused to have anything to do with the agents once they made their blatantly illegal requests, a handful responded positively, and a few of those apparently even provided seeds to the undercover agents.

Those few positive responses provided the DEA with the legal leverage it needed to subpoena UPS shipping records from a number of those stores. An investigation of a portion of the names provided by those records turned up a number of illegal indoor-marijuana growers.

For the DEA, the link had been made: They now had proof that some of the consumers who purchased indoor gardening supplies from the stores and mail-order houses which advertised in HIGH TIMES and Sinsemilla Tips were indeed using gardening equipment to illegally produce marijuana. The stage was set for the Operation to go public.

#### MAIN OBJECTIVES

The government succeeded in shutting down Sinsemilla Tips. Tom Alexander, whose Full Moon garden-supply store was seized during the early stages of Green Merchant—without him being charged with anything—was unable to continue publishing after all of his advertisers either went out of business or were threatened with charges if they continued advertising with him.

HIGH TIMES continues to publish despite the loss of revenue from those same advertisers. But once it became apparent that HT would not fold, a federal investigation was launched in New Orleans which attempted to make HT a co-conspirator with both the Seed Bank and the indoor growers. That investigation was dropped some months ago when the government failed to get an indictment.

Nevil Schoenmakers, who legally operated the Seed Bank (another HIGH TIMES advertiser) in Holland, was arrested by Australian authorities at the

behest of the US government in June, 1990. A 44-count indictment was lodged in New Orleans, charging him with the sale of marijuana seeds to undercover agents and indoor growers. He has been detained pending the results of an extradition hearing.

#### INCIDENTAL CASUALTIES

George Warren owned six Northern Lights garden centers in New York, Ohio and Pennsylvania. On October 24, 1989, he was visited in his flagship store by a man who asked about purchasing lights and hydroponic systems. During the course of the conversation the man, who turned out to be a DEA agent, inquired about acquiring marijuana seeds. Warren told the man he wasn't in that business; the man persisted, and Warren told him there were probably magazines he could look into for that kind of information, then excused himself to answer a phone call in his office. The man followed him into the office and passed him a note asking for 200 seeds. Warren asked the man to leave the store.

Two days later, nine DEA, Alcohol Tobacco & Firearms and local-authority agents arrived at Warren's main store armed with a warrant for business records, grow lights, hydroponic systems and other inventory that might be used to grow marijuana. That same day, the process was repeated at each of Warren's stores; by evening he'd lost inventory valued at nearly \$200,000. Warren himself, however, has never been arrested in connection with the seizures, and continues to fight for the return of his inventory.

Reached recently at home, Warren was furious. "If I've done anything wrong, arrest me. If not, give me back my merchandise. There's nothing illegal about lights. What are they going to do with them anyway?"

"Sell them at auction," he was told.

"You mean they confiscate my merchandise because they think some people will grow pot with it, and then they sell it to someone else?"

"That's how it works."

The owner of a large West Coast mail order gardening-supply center tells a similar story. On October 26, 1989, the DEA and state police arrived at his warehouse with warrants for business records and computers. They padlocked the warehouse and began forfeiture proceedings for the nearly \$1 million worth of inventory, the warehouse itself and the property it was located on.

The owner, who asked to remain anonymous, was never arrested. Ten months later, the prosecutor gave the owner's lawyer a list of 20 misdemeanors, which he said he would prosecute if the man continued to fight the forfeit. The choice was simple: Fight and lose thousands of dollars in legal fees—as well as risk one year in jail for each count he was convicted on—or give up the fight and walk away. His lawyer suggested that of 20 counts it wasn't unlikely that he would lose at least one, and conviction on even a single count would mean losing the forfeiture case anyway. The man took his lawyer's advice and walked.

While not all prosecutors are willing to go to such lengths to seize property, the laws regarding forfeiture certainly make it appealing for them to do so. The reason? Monies generated through the auction of forfeited goods are divided between the agencies involved in the seizure and the prosecutor's office which promotes the case.

Dan Viets, a defense attorney who has won a number of Green Merchant cases, says that while "the idea of forfeiture is not new, the idea of giving the money to the police and prosecutors is. A lot of people don't really understand that it's going on."

Forfeiture doesn't just affect businesses. One of Viets' clients, a former law-enforcement officer, stands to lose his whole farm because 37 marijuana plants were found growing on it. Another of his cases involved a couple found with four pot plants, who have had their 11-acre farm forfeited as a result. Viets is optimistic about both cases.

And the horror of the prosecution of Green Merchant cases isn't limited to forfeiture: One couple had their parental rights terminated for growing pot at home; several school teachers and at least one nurse lost their state licenses; others simply got caught up in the legal system, and found that trying to extricate themselves nearly ruined them.

#### REPERCUSSIONS

While the obvious targets of the Operation were HIGH TIMES, Sinsemilla Tips, the Seed Bank, store owners, small-time growers and the thousands of people who were investigated, the real victim of Green Merchant has been the Bill of Rights.

The right of free speech is a cornerstone of our republic. History is full of people who spoke out advocating illegal positions in an effort to change the laws governing them—from Thoreau's Civil Disobedience to Freedom Marches, and abortion rights. What Sinsemilla Tips did, and what HIGH TIMES does—advocate the legalization of marijuana—is no different than what others have done throughout American history.

The right to privacy has been gutted as well. The investigation of thousands of people—based solely on their having purchased legal equipment from legal businesses which happened to advertise, among other places, in pro-marijuana magazines—has been continually defended by the Justice Department, despite its obvious constitutional infringement.

Perhaps the rights most abused in the execution of Operation Green Merchant involve personal property and the right to be innocent until proven guilty. That store owners could have their businesses seized by federal agents, without there being enough evidence to charge those owners with any criminal activity whatsoever, is a terrifying concept; that people found to be growing marijuana in the privacy of their homes could have those homes seized by government agents before they were ever brought to trial is unconscionable. And yet this was one of the recurring themes of Green Merchant: confiscate property; threaten charges which would bankrupt the defendant to contest; and then make an offer to withdraw the charges if they agree not to fight the forfeiture.

#### NET RESULTS

The government has defended the actions of the federal, state and local authorities in Green Merchant as integral to the success of the War on Drugs. Terrence W. Burke, the Acting Deputy Administrator of the DEA, suggests that "there is no such thing as a casual or innocent drug user of illegal substances. Users are a major factor in the drug-trafficking problem, and they are going to be held accountable."

Steve Hager, HT's Editor-in-Chief, disagrees. "The whole reason we told people to grow their own pot was to get rid of the criminal element. We said, if you want this we'll tell you how to grow it. Don't give your money to the narcotics traffickers. Don't support the criminal drug trade."

Marijuana is illegal today only because the big boys haven't yet seen their way clear to corner the market once it does become legal. But you can bet they are working on that; marijuana is just too valuable to be kept off the market forever. It's just a question of working out the details—among which is ridding the marketplace of as many independent growers and as much information as possible. That part of the plan went into effect on Black Thursday—October 26, 1989.

In the final analysis, Operation Green Merchant has done nothing but ruin the lives of thousands, destroy the Bill of Rights, obfuscate the potential commercial and medical uses of marijuana by continuing to demonize it, raise the price of pot and invite the criminals to take charge of its production.

Way to go, boys. IT'S GREEN MERCHANT

ALL OVER AGAIN

by Peter Gorman and Johan Carlisle

(Aug. 91 HT)

In the latest development to grow out of Operation Green Merchant, the DEA served dozens of gardening centers throughout the country with administrative subpoenas late this past Spring. The action was aimed at securing customer records which might lead them to marijuana cultivators.

The subpoenas, served between May 21-24, are not legally binding. According to DEA spokesman Maurice Brown, they are "a polite way for the DEA to say to an individual: 'Would you, according to the power of the attorney general, please produce any records which we feel is evidence for our investigation?'"

Among those served were not only former HIGH TIMES advertisers as had been the case in the original Green Merchant operation nearly two years ago—but several stores that never advertised in either HIGH TIMES or Sinsemilla Tips (now out of business). An administrative subpoena is signed by an administrative official (in this case, an official of the DEA). A warrant is signed by a judge.

The information requested in the subpoenas includes "all sales receipts, customer lists, shipping records—including those in computerized form—for the period of January 1990 to the present."

Additionally, store owners who received subpoenas were asked to produce "all correspondence about marijuana cultivation or distribution...all employee records since 1986 and dates of tenure for each, as well as all correspondence relating to marijuana publications."

Dan Viets, a Missouri attorney, says that the people who received the administrative subpoenas should resist them. "If the DEA wants to get a real search warrant, let them try."

But several stores have been advised by their lawyers to turn over all the materials requested. And while no store owner would confirm that they had done so, several may have complied, placing thousands of indoor gardeners under the scrutiny of federal authorities.

Reaction from store owners to this DEA harassment has ranged from disgust to outrage. Larry Brooke, owner of General Hydroponics in Corte Madera, CA told HIGH TIMES: "I'm known as an opponent of both marijuana cultivation and legalization, but when the government crosses the line and erodes the Constitution with this sort of behavior it is not only our right but our obligation to defend the Constitution by refusing to comply with this illegal subpoena."

The DEA defends its latest action as part of an effort "to identify and put out of business those who would commercially cultivate marijuana," according to another DEA spokesman, Bill Ruzzamenti.

As always, we urge all people who make purchases of any kind from garden centers to use cash and take the items home yourself rather than have them delivered.

The Numbers

The most recent figures (Feb. 1, 1991) released by the Justice Department related to the first 18 months of Operation Green Merchant are:

\*443 arrests of private citizens for marijuana cultivation

\*50,794 marijuana plants seized (including unsprouted seeds in soil)

\*358 indoor grow-sites seized

Of all the arrests made in Green Merchant thus far, only two people had illegal substances other than marijuana in their homes; one man with 2.5 pounds of methamphetamine, and another with five pounds of mushrooms. Indeed indoor pot-growers don't appear to be supporting the criminal drug trade. NEVIL MAKES BAIL, THEN DISAPPEARS

(Nov 91 HT)

Nevil Schoenmakers, former owner of Holland's Seed Bank, has vanished. After spending 11 months in prison in Perth, Australia, Schoenmakers was freed on June 21, on \$100,000 bail. Six weeks later, he blew off a required appearance in federal court. It is believed that Schoenmakers was enroute to Holland.

The events left US prosecutors redfaced and angry. In New Orleans, where charges of violating the Controlled Substance Act were filed against

Schoenmakers on July 13, 1990, Assistant US District Attorney Laurence Benson had nothing to say about the dramatic disappearance. "We're in a no-comment mode on that," he told HIGH TIMES.

That Schoenmakers was finally granted bail after repeated motions came as a major surprise. Australian Federal Court Judge T.K. French gave two reasons for his decision: Schoenmakers was not a fugitive from any country, and he had already spent nearly a year in jail without being tried for any crime.

Schoenmakers, a dual citizen of Holland and Australia, was picked up by Australian authorities on July 24, 1990. He had flown home to join Trish Roberts, who was pregnant with their first child. At the time, Schoenmakers was making plans to return to Australia permanently to raise sheep and horses. Schoenmakers is a champion sheep breeder, as well as a breeder of the finest marijuana seeds in the world.

Less than two weeks earlier Schoenmakers and an unnamed co-conspirator were charged in a 44-count indictment with distribution of marijuana seeds, conspiracy to manufacture marijuana, illegal use of the US mails and operating a continuing criminal enterprise. Schoenmakers faces a maximum penalty of 99 years in federal prison.

The key allegations concern the continuing criminal enterprise charges, which carry a minimum sentence of 10 years. According to a source close to the case, the US District Attorney's office in New Orleans tried to cut a deal with Schoenmakers' lawyers that would have greatly reduced the amount of time Schoenmakers would have had to serve if their client could somehow implicate HIGH TIMES in a conspiracy with the Seed Bank, which bought advertising space in the magazine. The offer was rejected.

As one of his bail conditions, Schoenmakers agreed to report twice a day to the Midland police station in Perth. The August 2 edition of The West Australian, however, reported that Schoenmakers had failed to show up Wednesday morning, July 31, leading the paper to predict, "Star Will Miss His Show," which he did. Roberts told the paper the last time she had seen him was at home at 5:30 pm on Tuesday, July 30. Roberts went out for an hour. When she returned, he was gone.

"I believe he has much better prospects in Holland," she said. "I certainly hope he makes it."

Meanwhile, Schoenmakers' lawyer, Chris Elliot, tried to go ahead with the extradition appeal without his client, but the prosecutor, Marcus Weinberg, argued that to proceed with the appeal would be an abuse of the process because, he said, it was assumed that Schoenmakers would be hiding out and waiting to see which way the appeal went. An August 9 deadline was set for Schoenmakers to resurface and come to court. When he didn't, the appeal was dismissed.

If Schoenmakers, indeed, makes his way back to Holland, there is little chance that he could be extradited back to Australia for having broken his bail agreement, and no chance of his being extradited to the US. No extradition treaty between Holland and the US exists.

The Seed Bank, which was sold in 1990, continues to operate, though it no longer does business in the United States.

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Operation Green Merchant continues to affect the lives of hundreds, perhaps thousands of Americans. Each week the HT newsdesk receives two to four newspaper clippings from around the country—most related to busts or forfeiture—which mention the operation. Additionally, OGM spawned several other government operations, including Operation Smokescreen, which involved a grow store in Indiana that was operated by the Indiana state police (HT Aug., '92). More than 40 people who purchased equipment from the store were eventually busted for marijuana growing. In Houston, the DEA tried to get a store owner to allow them to videotape all transactions (HT May, '92). Also in Houston, several seed supply companies have recently opened, all suspected to be connected to law enforcement.

## About the Author

Source: <http://petergormanarchive.com>