DOES A POLICEMAN HAVE TO KNOCK?

I. INTRODUCTION

On Monday, 18 April 1983, Paul Chase was shot and killed in his home by a police constable. The constable, a member of an armed offenders squad, had entered Chase's home in the course of an inquiry into the discharge of a shotgun at an hotel the previous Saturday night. The accounts given to the news media of the manner in which entry was made to Chase's home call for an examination of the law as to when police or other officials may use force to enter premises. What follows is such an examination.*

Two accounts of the manner in which entry to Chase's house was made were given by a police spokesman.[1] The first was to the effect that an early morning armed raid had been ordered because a cordon and contain policy would have been impracticable, since a large number of people would have had to be evacuated quietly from a high density housing area. But the victim had barricaded the door of his flat:

> 'With chairs against the door, the stealth aspect was not successful and some noise resulted. They slowed down entry momentarily.'
> Six members of the armed offenders squad burst into the flat.
> The group's leader called 'Police — stay where you are'.[2]

But the victim walked out into a dimly lit hall carrying an object that appeared to be a gun (it was not). He was shot.

The following day, a different account of the entry was given by the same spokesman, who stated that some details given the previous day had been found to be incorrect. On this account:

> . . . armed offenders squad members had entered the house only after they had failed to get a response to knocks on the door and that, on forcing the door, they had twice called 'Police' before Mr Chase confronted one officer. . . .
> The second call of 'Police' had been made only minutes before Mr Chase was shot, and police believed it should have been loud enough for the man to hear, Mr McEwen said.
> . . . The statement on Monday . . . had [not] made clear the officers had knocked before entering the flat. . . . Mr McEwen said he had not attempted to mislead on Monday. He had tried to be as open as possible and the mistake had only come to light when further inquiries had been made.[3]

Plainly there is a major difference between these accounts of what took place. The difference is vital. For it is only where a police constable has demanded entry to premises, has explained his office and business, and the demand has been refused or ignored, that s/he is entitled to make a forcible entry to those premises. In the absence of these preconditions entry by force will be il-

* The Report of an independent examiner into the Chase shooting was published after completion of the body of this article. It is discussed in an Addendum to this article.

1 NZPA Report of Statements by Chief Superintendent S. McEwen, *NZ Herald*, Tuesday 19 April 1983.
2 *Idem.*
3 NZPA Report of Statements by Chief Superintendent S. McEwen, *Auckland Star*, Wednesday 20 April 1983, 3. Also *NZ Herald* Thursday 21 April 1983, 3.

legal. This, like most rules, is subject to some limited exceptions, none of which seem applicable in the *Chase* incident.

II. THE STATUTORY CONTEXT

Many statutes entitle police constables and other state officials to enter premises and to use force to do so.[4] This may be for the purpose of the execution of a search warrant or an arrest warrant,[5] or force may be used to enter where a constable is in "hot pursuit" of a serious offender or must enter premises to prevent some serious offence: s 317 Crimes Act 1961.

All of these statutes, however, use language which indicates that force may be used to enter premises only where necessary. Section 317 (1) is typical:

> Where any constable is authorised by this Act or by any other enactment to arrest any person without warrant, that constable . . . may enter on any premises, by force if necessary, to arrest that person if the constable —
> (a) has found that person committing any offence punishable by death or imprisonment and is freshly pursuing that person;
> (b) . . .

The crucial words are "by force if necessary". Other statutes provide for slightly differently worded tests such as "by force if need be",[6] but these differences are not significant. What we must notice is that the test provided is objective in the sense that it is not the opinion of a constable or official as to the need for force that counts, but the opinion of the courts. It must indeed *be* necessary to use force to gain entry.

III. WHEN IS FORCIBLE ENTRY "NECESSARY"?

There is no reported New Zealand case which directly discusses the criteria which must be satisfied before forcible entry will be justified. There are English and Canadian cases of high authority dealing with the matter which suggest that, among other things, a demand to enter the premises must be made (and ignored or denied) and the officer must announce his/her business. *Semayne's case*[7] is the origin of the rubric as to 'an Englishman's home being his castle'. In that case, Coke notes that in cases where the King is a party the sheriff may break into a house to make an arrest if the doors are not open, but —

> . . . before he breaks into it, he ought to signify the cause of his coming and to make request to open the doors.[8]

As well as vindicating the principle that "the house of everyone is to him as his castle and fortress",[9] this was for the reason that ". . . the law without default in the owner abhors the destruction or breaking [into] of any house (which is for the habitation and safety of man) by which great damage and inconvenience might ensue to the party when no default is in him; for perhaps he did not know

4 Apart from those specifically mentioned, see Misuse of Drugs Act (1975), s 18; Arms Act (1958), s 25; Customs Act (1966), s 217.
5 Summary Proceedings Act (1957), ss 22 and 198.
6 Section 25, Arms Act (1958).
7 (1604) 77 ER 194.
8 *Ibid*, 195.
9 *Idem*.

of the process of which, if he had notice, it is to be presumed that he would obey it''.[10]

The principle of *Semayne's case* has never been doubted in English law. It was reaffirmed in *Burdett* v *Abbot*[11] and *Launock* v *Brown*[12], although in the latter case a suggestion (never taken up) was made that while admittance must first be demanded in the case of misdemeanours the situation might be otherwise in the case of felonies. Hale[13] also considers that there must be a request to open the door, and ''notice of his business'' before a constable or sheriff may break open a door.

In New Zealand *Semayne's case* was discussed in *Mathews* v *Dwan*[14] in the context of the question of whether or not a constable could enter premises forcibly in order to arrest a suspect under the statutory provision then in force. On this issue, Gresson J thought *Semayne* was of little assistance since ''the position in New Zealand is primarily a matter of statutory enactment, and the foregoing cases do little more than provide a historical background''.[15] But the question of what demands *et al* must be made before forcible entry did not arise.

That issue did arise very directly in two decisions of the Supreme Court of Canada: *Eccles* v *Bourque*[16] and *Colet* v *R*[17]. In *Eccles* v *Bourque* the Court confronted the issue of when forcible entry can be justified and directly discussed the question of the need for a demand to be made. The Court (somewhat prophetically?) considered that —

> . . . except in exigent circumstances, the police officers must make an announcement prior to entry. There are compelling considerations for this. An unexpected intrusion of a man's [sic] property can give rise to violent incidents. It is in the interests of the personal safety of the householder and the police as well as respect for the privacy of the individual that a police officer identifies himself and requests admittance.[18]

The Court considered that in the ordinary case police constables should (1) give notice of presence by knocking etc., (2) identify themselves as police officers, (3) give notice of purpose by stating a lawful reason for entry. At *least* they should request admission and have this denied. If these preconditions for the justification of forcible entry were absent, then the entry would be a trespass.

The circumstances of *Colet* v *R* (*supra*) were, as Ritchie J noted ''somewhat startling''. The local municipality planned to demolish Colet's substandard and illegal shack which he had built on his own land. The police became apprehensive that he might use fire arms to resist this work. They obtained a warrant authorising the seizure of, but not (the relevant statute did not provide for it) entry and search for, any fire arms Colet might have. When they approached his premises they ''waved the warrant at the appellant from a distance'' and told him that it was a warrant to *search*. The appellant climbed onto the roof of his

10 *Ibid*, 196.
11 (1811) 106 ER 482. The principle of *Semayne* was also approved in *Foster* v *Hill* (1611) 80 ER 839, *Curtis* (1755) 168 ER 67, *Southam* v *Smout* [1963] 3 All ER 104.
12 (1819) 106 ER 482.
13 Hale, *History of the Pleas of the Crown*, Volume 2, 117.
14 [1949] NZLR 1037.
15 *Ibid*, 1042.
16 (1975) 50 DLR (3d) 753.
17 (1981) 119 DLR (3d) 521. See also the earlier proceedings at (1979) 46 CCC (2d) 243.
18 *Supra*, n 16, 758.

shack, threw some gasoline at the police, and tried to ignite it. He was charged with attempted murder and intending to cause bodily harm. His defence was that the police had no authority to enter and that he was entitled to act in defence of his property. The Supreme Court of Canada agreed. Not only did the police have no authority to enter (the statute did not authorise entry and search) but, seemingly, the police had not complied with the requirements of *Eccles* v *Bourque* as to announcing their presence and demonstrating their authority by stating a lawful reason for entry.

The cases mentioned so far must be taken together with the more general principle that police powers are to be narrowly construed. This principle, which perhaps has been lost sight of in recent years, was forcefully restated by the House of Lords in *Morris* v *Beardmore.*[19] In that case the House of Lords was clearly of the view that statutes conferring powers on the police should be interpreted restrictively. According to Lord Scarman —

> When for the detection, prevention or prosecution of crime Parliament confers on a constable a power or right which curtails the rights of others, it is to be expected that Parliament intended the curtailment to extend no further than its express authorisation. . . . It is not the task of judges, exercising their ingenuity in the field of implication, to go further in the invasion of fundamental private rights and liberties than Parliament has expressly authorised.[20]

It may be noted that Lord Scarman describes the common law right of privacy in one's home as "fundamental", observing as he does so that this adjective has an "unfamiliar ring" in the ears of common lawyers. But he believes that the common law ascribes such importance to the privacy of the home (as do international human rights conventions) that the adjective is appropriate.

This restrictive approach to the question of police powers is echoed in numerous New Zealand cases. *Elder* v *Evans,*[21] *Police* v *Newnham,*[22] *Police* v *Ford,*[23] *Blundell* v *A.G.,*[24] *Williams* v *Police,*[25] and most recently *Oaten* v *McFadgen*[26] are all cases where either impliedly or expressly the principle that police powers must be narrowly construed and that courts should act conservatively in this sphere has found recognition.

Finally, further recognition of the principle is found in Maxwell, *The Interpretation of Statutes*, 12th ed (1969), at page 251, where it is asserted that statues which encroach on the rights of the subject should always receive a strict interpretation. This assertion was mentioned with approval in *Colet* v *R* (*supra*).

When all the foregoing is taken together, we get the following picture of the circumstances in which a constable (or any other official with analogous powers) may use force to enter premises. First there must, obviously enough, be either a search or arrest warrant, or fulfilment of the statutory preconditions

19 [1980] 2 All ER 753.
20 *Ibid*, 763.
21 [1951] NZLR 801.
22 [1978] 1 NZLR 844.
23 [1979] 2 NZLR 1.
24 [1968] NZLR 341.
25 [1981] 1 NZLR 108.
26 [1982] Recent Law 352.

for entry without warrant. But there must then be a demand to enter the premises, coupled with a notification to the occupier of the office of the person seeking entry and the authority pursuant to which entry is being made. This would normally involve telling the occupier of the purpose of the entry. If the response is a denial of entry, or silence, forcible entry may be made.

There will be a limited range of situations where demand and notification need not be made, that is, where police may burst in without warning. *Eccles* v *Bourque* (*supra*) recognises that in exigent circumstances no announcement is required. This would cover situations of "hot pursuit", or entry to prevent/interrupt the commission of a serious offence such as culpable homicide or assault which there is good cause to suspect is in the process of being committed. These circumstances are already contemplated by ss 41 and 317 (2) of the Crimes Act 1961. Immediate entry may also be justified if there is a danger of a suspect escaping and it is impracticable to close off escape routes. There may also be a limited class of cases where immediate entry is required to prevent the destruction of evidence.[27] This class should be narrowly confined, the typical situation being where evidence is of a type or quantity that can be destroyed in a matter of seconds, and facilities exist for destroying it.

A further exception was outlined in the recent case of *Swales* v *Cox*[28] (a case which also supports the general argument as to notice and demand). In relation to a statute which authorised the use of force to enter premises "if need be", Donaldson LJ first observed that "anybody who seeks to enter by force has a very severe burden to displace".[29] But he considered that, if a criminal is *known* to be a "very dangerous man", it may be essential for the protection of a police constable that the constable give no warning of his approach by asking permission to enter. But this, thought Donaldson LJ, would be an extreme case and generally the words "if need be" are of "immense weight and importance . . . the constable will have to prove that [force] really was necessary . . .".[30]

These limitations on the use of force to enter premises do not create any major difficulties for police and other officials. They do give recognition to a significant psychological fact which should in any event be reflected in police tactics. That fact is that a sudden forcible entry into a person's home is likely to provoke a defensive response. Violent resistance, whether by reason of a person being startled or by a vigorous defence of the premises, is likely. There is no time for talking, for consideration, and the tension of the situation is greatly escalated. The law has recognised this commonsense fact in its approach to when forcible entry may be justified; observations on the matter are found in *Semayne's case* and in *Eccles* v *Bourque*. If there is any tendency on the part of police or other officials to lose sight of this fact, they should be forcefully reminded of it.[31]

What are the consequences of a failure to demand admission and give

27 *Eccles* v *Bourque* (*supra*) n 16, 758.
28 [1981] QB 849.
29 *Ibid*, 855.
30 *Idem*.
31 In the United States common law and statute (both federal and state) strongly support the position taken here. There is a general "knock and announce" requirement before forcible entry may be made. The purposes served by this requirement include avoidance of injury to police and innocent occupants, avoidance of unexpected exposure of private activities, and prevention of property damage. Exceptions similar to those suggested here are provided. See *eg: Commonwealth* v *Cundriff* (1980) 415 NE 2d 172, *Ker* v *California* (1973) 374 US 23, *U.S.* v *Fluker* (1976) 543 F 2d 709, at 715, "Note: Announcement in Police Entries" (1970) 80 *YLJ* 139.

notice? In *Colet* v *R* (*supra*), the Supreme Court of Canada thought that the entry would not be justified and that the officials involved would be trespassers. The acquittal of the appellant in *Collet* was thus restored, for he was entitled to use reasonable force in defending his property. Force used by an official to overcome such resistance would not be justifiable. However, if the official believed that s/he was entitled to enter and that s/he was being attacked by the occupier, the new self-defence provision of the Crimes Act (s 48) might apply. This provision allows the use of such force as is reasonable in the circumstances *as the defendant believes them to be*; thus there might be no liability for the use of force against the occupier where it was claimed the force was used in self-defence. But the official or policeman would still be criminally and civilly liable as a trespasser. A policeman has to knock.

IV. DISCURSUS; THE DEBATE ABOUT POLICE POWERS

Should the law so hedge about the powers of police and other law enforcement officials? There is a mood abroad today among some politicians and some sections of the public and, indeed, some judges[32] that the threat to public order, morality and safety posed by criminal activity is such that we should be vigorous in sweeping away any impediment to the most efficient and effective policing possible. The contexts in which such opinions are most frequently expressed are those of drug offences and political dissent and protest. But there is a more general application of this mood, an application arising from the assertion that we need not be sensitive about the "rights" of suspected lawbreakers — their "rights" take second place to the public interest in the detection, prevention and punishment of crime. A comment from Craig J of the British Columbia Court of Appeal in the lower court proceedings in *Colet* v *R*[33] is fairly representative:

> It is legislation in the public interest. This interest is paramount; the rights of the individual are secondary. Surely, then, the rights to seize any of the things mentioned in the subsection must include the right to search for any of these things.

This completely inverts the more traditional view of how these questions are to be approached. That view, expressed in many cases including *Semayne* and *Eccles* v *Bourque*, has been that there is, initially, a broad basic principle (for Lord Scarman, in *Morris* v *Beardmore* (*supra*), a "fundamental right") of the security and privacy of individuals in their persons and homes, and that violation or displacement of these interests must be justified in the public interest. Yet some cases in recent years on police powers, especially powers to search or to intercept communications (the observations in paragraph 3 [above] notwithstanding) have shown a tendency to move towards the position that once a public interest in the protection/prevention of crime is asserted, the interests of individual security and privacy are immediately displaced. This is a significant change in the onus of argument.

We must also question the use of the term "public interest". The vague, undifferentiated way in which this term is frequently used creates a danger that we will lose ourselves in our own rhetoric and thus justify a progressive aban-

32 See, for example, the judgments in *R* v *Keeble and McGinty* [1983] Recent Law 13, and subsequent proceedings in the High Court, Wellington Registry, 8 February 1983 (T84, 85/81) Quillam J.

33 (1979) 46 CCC (2d) 243.

donment of the "traditional" rights and liberties without ever scrutinising what we are doing. What we have a "public interest" in is the maintenance of public order, which I take to mean the physical environment and structure of expectations and reliances essential to the wellbeing and opportunity for flourishing of individual members of a community.[34] A degree of public order sufficient to enable this flourishing is required. But in this conception "public order" is not an absolute value in itself. The point may be stated another way. In *Oaten* v *McFadgen* (*supra*) Hardie Boys J noted that the liberty of the subject is "more important than, indeed is the objective of, law enforcement and the prevention of crime".[35] With respect, this gets it right. We must constantly beware of justifying the abridgment of rights and liberties by reference to a vague concept of the "public interest", for there is no public interest per se in law enforcement as an absolute value.

Why has the debate as to police/official powers taken the direction outlined above? Perhaps part of the reason is encapsulated in a remark of the Thompson Committee on Criminal Procedure in Scotland:

> At worst such legalisation of police practices as we propose will place the articulate and knowledgeable citizen in the same position as that presently occupied by the ignorant and inarticulate citizen. As people become increasingly aware of their rights, the present tacit cooperation which makes it possible for the police to function may not continue, and the police may find themselves in a position to do only what they are specifically authorised to do by law.[36]

What this extraordinary remark suggests is that the "rights" of the citizen in liberal democracy were never really extended to a large mass of the citizenry and that when sufficiently large numbers of the previously ignorant begin to realise their rights and assert them the time has come to strip away the rights in question. Those who wish to embrace this sort of reasoning are welcome to it, but it surely cannot form the basis of any reasoned shifts in the nature of police powers.

The relevance of these observations to the question of forcible entry by officials is this: the criteria for justified forcible entry which the common law developed and which the Supreme Court of Canada has recently restated ought to be imported into the New Zealand statutory test of "reasonableness", for the reason that these criteria *are* an impediment to the most effective and efficient policing possible,[37] an impediment which recognises that a residual sphere of privacy and autonomy, which may not be invaded without very good cause, is a necessary concomitant of human flourishing. It is a matter for sadness that such an approach to these matters now seems unfashionably conservative (or radical?).

JOHN HANNAN
Faculty of Law
University of Auckland

34 See J. Finnis, *Natural Law and Natural Rights* 1980 (Clarendon: Oxford) ch 8.
35 *Supra*, n 25, 353.
36 *Criminal Procedure in Scotland (Second Report)* HMSO (1975) Cmnd 6218 para 3.11.
37 Would such effectiveness and efficiency contemplate, as the Prime Minister in his public comments on the *Chase* matter seemed to do, the shooting on sight of suspects believed to be armed and violent?

ADDENDUM: The Nicholson Report

On 2 May 1983, Mr C. M. Nicholson, QC was appointed to act as an independent examiner to review police actions in respect of the *Paul Chase* shooting. Subsequent to the writing of the body of this piece, Mr Nicholson reported to the Minister of Police; C. M. Nicholson, QC, *Report re: Paul Chase Shooting*, NZ Government Printer, Wellington, 1983. Two matters arise from this report. First, what notice was given and, secondly, whether this notice was adequate.

1. **Was adequate notice given before entering?**

   Chase's wife was present when the Armed Offenders Squad burst in. She confirmed that the squad knocked on the door of the flat before bursting in. Her husband got out of bed, went to the door, returned to the bedroom and said "The blacks are outside" (a reference to the Black Power gang; the discharge of the shotgun had involved a confrontation between the Black Power gang and the Mongrel Mob [of which Chase was a member]). He had grabbed an exercise bar which was similar in appearance to a fire arm, left the room, and was then shot.

   Mrs Chase did not hear anyone call "Police!" or "Police, stay where you are!" either before or after entry to the flat was forced. The accounts given by the members of the Armed Offenders Squad of this matter varied; the officer who shot Chase claimed he called "Police!" as the door opened and called "Police!" again as he heard (but before he saw) Chase approaching. Five of the other Armed Offenders Squad members present stated that they heard *one* call of "Police!". The sixth member heard *two* such calls. No verbal demand to enter and no notification of the identity of the police party was given prior to entry being forced.

   Nicholson fails to resolve the conflict of evidence. He says that he cannot discount the possibility of an agreement by the members of the Armed Offenders Squad to say that a call of "Police!" was made. He states (p61):

   > I am not satisfied beyond reasonable doubt that the word 'police' was called. However, the corollary is also the case and I am not satisfied beyond reasonable doubt that it was not called.

   (There are a number of matters in the Report which could provide circumstantial evidence of the possibility of an agreement by members of the Squad to say that such a call was made.)

   Even if the police version(s) of what verbal notice was given is accepted, it is doubtful that it was adequate notice within the principles outlined in section 3 (above). The verbal notice was given after force was used. The only notice given prior to that was the knocking and, on his wife's evidence, Chase seemed to have thought that the flat was being attacked by another gang. The precise situation which the requirements set out in such cases as *Eccles* v *Bourque* (*supra*) were intended to guard against was thus created; Chase's mistaken and needless attempt at defence led to his death.

2. **Did exigent circumstances justify the failure to give proper notice?**

   The question now raised is whether or not the situation fell within the "exigent circumstances" exception. The way in which Nicholson approaches this question is to attempt to reconstruct what information police had at the time the decision to enter without proper notice was made.

   Initially, it may be noted that the wording of the relevant statute (s 198, Summary Proceedings Act 1957) authorises the use of force "if necessary".

This is entirely objective language; it does not, seemingly, involve a test of what police believed to be necessary on the facts known to them, but rather involves what *was* necessary on the facts as they actually were. (Note the language of Donaldson LJ in *Swales* v *Cox* (*supra*); the words "if need be" are of "immense weight and importance . . . the constable will have to prove that [force] really was necessary . . .").

This approach seems much too hard on the police. An acceptable middle ground would be to say that the question of whether entry without notice was necessary is to be judged on what police knew or ought to have known at the time the decision was taken. Entry without notice based on erroneous information stemming from a seriously inadequate investigation would not be justified. This seems a reasonable position when it is remembered that (1) criminal and civil liability will be limited to trespass and property damage; (2) forcible entry without notice is one of the greatest imaginable violations of the privacy of the home.

What did the police believe and how adequate was the investigation leading to that belief? Nicholson covers both matters in detail. Police knew at the time the decision was made to enter without proper notice that Chase had been a member of a group that had entered an hotel with a shotgun and discharged it into the ceiling (no serious injuries had resulted). The police information indicated that an associate of Chase had fired the shot. They believed that Chase and one other person involved in the shooting were in the flat. They thought that the person who had actually fired the weapon might be there. They knew that Chase had a criminal record which included assaulting a constable and being involved (together with one of the other participants in the hotel incident) in a police/gang confrontation. Chase had been sentenced to a total of 6 months' imprisonment in relation to this. A constable who had been involved in this confrontation told his colleagues that Chase and his associates were "pretty nasty guys". A later briefing had included statements (Nicholson does not state on what basis these were made) that the suspects thought likely to be in the flat were "particularly dangerous", had records of violence, and that two of them (Chase was not one) "could not be relied upon to act rationally" (pp11 and 21). It was thought that the shotgun might be in the flat.

Police commanders rejected a "cordon and contain" policy because that would require evacuating occupants of neighbouring flats, which would alert the occupants of the Chase flat. Telephone or loud hailer appeals would also alert the occupants of the flat and could lead to the taking of hostages. Teargas would require evacuation. Waiting for the suspects to come out would require a risky street confrontation and would take more time (other addresses had to be searched). The decision to knock but not to give verbal notice was made for the rather contradictory reasons that knocking would give the occupants a chance to realise that this was not a retaliatory raid while if "police" was called before entry it might provoke an anti-police reaction (pp43, 44, 52).

On all this material, Nicholson concludes that the "high risk exigencies of the case" were such that the police were legally entitled to enter as they did, but that anyway it is dangerous to judge the point with hindsight, and unjust to judge the decision by the result (p53).

Were these "exigent circumstances"? On the facts as they actually were,

there were clearly no exigent circumstances, as Nicholson admits (p40). On the facts as the police believed them to be, the matter is less clear; Chase was not believed to have used the fire arm, but it was possible that the person who had done so was in the flat, and Chase and at least one other suspect had some history of violent offending. Did these possibilities make it necessary to enter without proper notice? Recalling the language of Donaldson LJ in *Swales* (*supra*), I do not think so. Even on the facts as the police believed them to be, there was, I believe, insufficient justification at law for the course adopted. But the case is marginal.

One thing is clear. The police commanders who made the decision to enter without proper notice seemed to have been unaware that there might be any legal requirement that had to be satisfied before they were entitled to do so, or that the law considers that a person who seeks to enter premises by force has a very heavy burden of justification to discharge. The statements of these officers in the Nicholson Report seem to indicate that it was solely tactical considerations that moved them. In his examination of their action, Nicholson adopts their approach, saying (in effect) in several places that it would be wrong to second-guess at this late date the tactical judgment of the officers involved. And one would not object to that but for the fact that those judgments must be made taking due account of the values and priorities as to rights of security and privacy in the home that the law has stipulated; police act in a framework of law and their licences to enter (and to kill) are strictly limited. If the stipulations of the law as to the notice required before forcible entry had been complied with, Paul Chase might very well not have died.*

* *Editor's Note:* The Wellington Coroner, Mr A. D. McGregor, at the inquest into the death of Paul Chase on December 9, 1983, commented that the Police decision to force their way at dawn into the home of Chase in an attempt to arrest him was "precipitate". The police, instead, should have considered delaying their raid on Chase's home. He could have been apprehended as he went to work. "I find it surprising that it was not attempted", Mr McGregor stated. "The evidence before me does not satisfy me that just before dawn on April 18 was the appropriate time to make the search and arrest".

The Coroner had found that Chase died from a gunshot wound to the abdomen inflicted by a member of the police armed offenders squad while executing a search warrant. The policeman had shot Chase in the belief that his life was in danger. The former came squarely within the requirements of the police general instructions of use of a firearm when he had fired at Chase, and he had had a reasonable apprehension of death and could not protect himself in any other way.

(*New Zealand Herald*, 10 Dec., 1983, p8).