

THE LEGAL FOUNDATION OF A POLICE STATE

There exists a statute innocuously known as Public Law 831 or the McCarran Act. The most noxious provision of the bill exists at Section 103 and Section 104 of Title II. This provision enables the Attorney General "whenever there shall be in existence such an emergency... to apprehend and by order detain, pursuant to the provision of this title, each person as to whom there is reasonable ground to believe that such person probably will engage in, or probably will conspire with others to engage in acts of espionage or of sabotage. This detention shall continue until a) the termination of such emergency by proclamation of the President or by concurrent resolution of the Congress, b) an order of release issued by the Attorney General, c) a final order of release after hearing by the Board of Detention Review (created by this act), or upon writ of habeas corpus."

Various sections of the bill had been ruled unconstitutional by the Supreme Court (not including the preventative detention section). However, in 1968 Public Law 90-237 was signed by LBJ reviving the various provisions of the original McCarran Act which had been diluted by the Supreme Court. For example, Bill 90-237 provides that a communist front means any organization in the U. S. which is substantially directed, dominated, or controlled by one or more members of a Communist-action organization, (title I, Sec. 3(4)(B),) authorizes compelled testimony and the production of evidence despite claims of self-incrimination (Fifth Amendment), after a grant of immunity from prosecution upon representation of the Attorney General that such testimony or evidence is necessary, and anyone who refuses such immunity and refuses to bear witness against one's organization and members may be subject to indeterminate jail sentence until such witness purges himself of such contempt, (Title I, Section 13(c)). This is the tenor of the existing bill.

Recently a bill has been introduced into Congress which asserts that the preventative detention section of the bill is unconstitutional. (See the discussion by Senator Inouye of Hawaii in the Congressional Record of October 1969 at S. 13686). The bill at present is still pending before the Senate. However, attached as a rider to this bill, is a bill introduced originally over one year ago by Sen. James O. Eastland of Mississippi. Eastland's bill, S 12 introduced in January, 1969, as he states is "to strengthen the internal security of the U. S. by shoring up Communist-hunting-laws that have been eroded by decisions of the U. S. Supreme Court." (See P. 2 and 3 for discussion of S 12).

It is to be noted that even if the preventative detention section of the McCarran Act is abolished by the Inouye bill, there is now in the works another bill which would allow a judge to decide whether the accused is "probably guilty" or might commit another crime while out on bail. If a judge so determines the accused may be incarcerated up to two months without bail.

Thus the overall effect of the above could be that the McCarran Act, strengthened by the LBJ provisions of 1968, would be without its preventative detention section, however dilution of this preventative detention section would mean adding to the McCarran Act the Eastland Bill, for as a rider the fate of the Eastland Bill coincides with the fate of the bill seeking to abolish preventative detention. In addition a new "preventative detention" law would allow a judge to incarcerate an accused for up to two months without bail.

S 12 EASTLAND'S HUNT FOR COMMUNISTS

The act as Mr. Eastland put it is to shore up the Communist-hunting -laws that have been eroded by the United States Supreme Court.

Title I §104 provides that anyone who knowingly or willfully advocates, abets, advises, or teaches the duty of overthrowing or destroying the government of the United States, or any State, by force or violence or assassination of any officer of such government or with intent to overthrow such government teaches, advises, or advocates the propriety of such overthrow, without regard to the immediate probable effect of such action, is guilty of a felony and subject to 20 years and \$20,000 fine.

§105 provides a \$10,000 fine and/or 10 years imprisonment for willfully and knowingly aiding or comforting and does so by overt act one who is considered an adversary of the United States, any foreign nation or armed group engaged in open hostilities against the United States or with which our armed forces are engaged in open hostility.

Title II §203 no longer permits any member of a Communist organization or Communist-action-organization (and thereby subject to Communist discipline) to work in any employment which may effect the national security of the U.S., due to the fact that a major objective of the Communist conspiracy is the overthrow of the government of the U.S.

§ 205 authorizes discharge of an employee without any liability to the employer of anyone who is a member in an organization duly designated by the Attorney General as subversive, or one who has concealed his membership in such organization, or one who has refused to testify when called before a congressional committee (e.g. H.U.A.C. or S.I.S.S.).

§207 forbids members of communist-action organizations from accepting or holding positions involving teaching or administration in any educational institution or system maintained by the U.S. or any state, or any municipality or other subdivision of any State and supported wholly or partly by Federal funds.

Title III deals with foreign agents.

Title IV provisions affect immigration, naturalization, and the obtaining of passports. For example the Attorney General shall have all powers, duties and functions heretofore exercised by consular officers and by the Secretary of State, with respect to the refusal, issuance, and revocation of visas. Admission to the U.S. shall be denied to all foreign nationals whose governments refuse to accept deportees from the U.S. Furthermore, anyone who fails to swear allegiance to U.S. shall not be entitled a passport. And anyone, who has a passport, invalid or valid, and who refuses to submit it upon demand by the Secretary of State shall be fined \$5,000 and /or imprisoned for 5 years.

Title V denies the right to remain silent or refuse to submit record which may incriminate you ; a) if a majority of the members of a committee or subcommittee of either House or a joint committee believes such records or testimony is required, b) if the Attorney General in writing informs such bodies that the records or testimony is required. In addition fines and/or imprisonment is provided for U.S. nationals outside the boundaries of the U.S. who refuse to heed a subpoena to appear before such bodies. Furthermore, the bill denies the right of court review. It states that the propriety of action by such committees is peculiarly a legislative prerogative and therefore not subject to court review.

Title VI establishes a highly centralized security-loyalty program for Federal employees, linked to the Subversive Activities Control Board. In charge of the system is a new agency, the Security Administration for Executive Departments, "subordinate only to the President of the U.S." It has sole responsibility for all investigations (except those conducted by the F.B.I.) and "all evaluations" in personnel security cases. The Security Administration also has extensive powers to inspect and coordinate the loyalty programs administered by the various executive agencies and to promulgate such regulations as it may determine to be necessary to provide the uniformity in the application and administration of loyalty and security programs of executive agencies. The Security Administration also takes over the loyalty program of employees of the U.N.

Title V II provides that any person who is denied employment by a firm having a government contract because of unevaluated adverse security information concerning him may file a petition for relief with the Subversive Activities Control Board. After a limited hearing in which the applicant is not allowed to see adverse security information which is "classified or confidential," the Board must ask the new Security Administration for a "security evaluation report." Armed with this report the applicant may try again to get a job from the contractor.

Title VIII (Riot Control Act of 1969) prohibits travel in or use of any facility of interstate or foreign commerce, including, but not limited to mail, telegraph, telephone, radio, or television, with intent to participate in, or carry on a riot, or to commit any act of violence in furtherance of a riot, or to commit any act which may aid or abet any person in inciting or participating in or carrying on a riot or committing any act of violence in furtherance of a riot. Violation is punishable by five years or \$10,000 fine or both. A riot is defined as a public disturbance involving act or acts of violence by one or more persons part of an assemblage of three or more, which act or acts constitute a danger of or result in injury to property or person. Or a threat or threats of the commission of act of violence by the above. The term "incite a riot," "organize, promote, encourage, participate in or carry on a riot," includes urging or instigating other persons to riot, but shall not be deemed to mean the mere oral or written 1) advocacy of ideas or 2) expression of belief, not involving advocacy of any act or acts of violence or assertion of the rightness of, or the right to commit, any such act or acts."

Title IX Empowers the Secretary of State to place any area of the world off limits to U.S. citizens because of complex and subtly shifting world conditions which currently do and from time to time make it contrary to the national interest, a threat to national security and a serious impediment to the realization of foreign policy objectives of the United States to have citizens travel in such areas.

Title X - Miscellaneous provisions include the granting of the U.S. special admission to the country and annuities to defectors of communist countries. Denying tax exempt status to communist organizations. Penalties for solicitation of persons or advising such persons to overthrow the government of the U.S., or any state, territory, country, parish city, or other political subdivision thereof.