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## Nixon's Security Act

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During the McCarthy era, Congress passed many laws providing for broad investigations into many organizations and individuals. Because of their invasions of privacy, catch-all definitions and secretive information sources, the Supreme Court has ruled most of these laws unconstitutional. But now the present administration (Richard Nixon was one of McCarthy's strongest supporters in the House) has proposed a series of "anti-crime bills" taken straight from the McCarthy era. One of these bills is the Defense Facilities and Industrial Security Act of 1970.

The given reason for the bill is to protect production and classified information in defense-related industries and institutions. It would do this by denying security clearances, discharging certain employees, instituting broadly based investigations, setting up an agency to watch us, and creating a blacklist of various organizations.

In order for a facility or institution to be covered by this bill, it must be a "defense facility." A "defense facility" is defined as any plant, factory, industry, vehicle of transportation, or educational institution which is involved with the national defense (has defense contracts or the like). (What college or university is not involved with "national defense"?) The only limitations on this definition are that the facility contribute to the national defense or be in critical demand in emergency situations. Further, this criterion is determined solely by the Executive Branch with no provision for appeal.

Concerning the broadness of the "facility provision," Louis Stokes (D-Ohio) said, "It is conceivable that a university, for example, might be designated as such a facility because its science department is under Government contract to provide important classified military projects."

The bill defines "act of subversion" as "any unauthorized disclosure... or any act, omission to act, conspiracy, or solicitation which ...would tend to cause damage or injury to any facility or its production... with the intent to impair the national defense... or to effect any plan, policy, recommendation, directive, tactic, or strategy of any Communist, Marxist-Leninist, revolutionary socialist, anarchist, nihilist, Nazi, Fascist, or other organization which has as purpose the destruction of the constitutional form of government of the United States by any means necessary to that end, including the unlawful use of force and violence."

Concerning the last few sentences, Marsha Stern, writing in Freedom News, says, "This definition, to be applied by the Executive, does not exclude those seeking change through lawful and peaceful means."

Thus, almost any form of dissent or disagreement with the government could be construed as being an "act of subversion."

Val Klink, chairman of the Alliance to End Repression, points out that this "can be construed to mean almost any criticism of the military - industrial - educational complex" because, by using facts, one would have committed an "unauthorized disclosure." Klink cites the example of the upcoming ABM debate. If scientists who work in the industrial or research (university) part of the system criticized the deployment of ABM, they "could conceivably come under the unintentional disclosure definition of 'acts of subversion.'"

Marsha Stern cites as example "a chemist who demonstrates peacefully against napalm may (be) jeopardizing his chances of working."

In order to invoke the "Security Act," it must be determined whether an individual is "affiliated" with any "subversive" organizations. The criteria utilized to determine whether someone is "affiliated" if there is a close working relationship, mutual understanding, or cooperation between the person and the organization. The bill also states that a loan or a donation to an organization is "affiliation."

Val Klink points out that this could be applied to the New York churches that "put up church properties as bail bonds for members of the Black Panther Party." Klink also states that the provision concerning "affiliation" is in direct violation of the Supreme Court ruling in US vs. Robel. In that case the Court ruled that a person must be shown to be an active member of an organization and aware of its unlawful aims before any security clearance can be denied.

Should one have reprisals made against him under this act, an appeal apparatus is provided for. However, to 139 professors of constitutional law who mailed a statement to the Senate Judiciary Committee, "it proscribes procedures for implementation which cannot be reconciled with the requirements of due process of law."

The appellant may appear before a hearing officer and present evidence on his behalf, but provisions are made for "reasonable restraint" on the right of cross-examination with those who have made the accusations. The appellant does NOT have the right to cross-examine "intelligence

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agents" if it would "harm national security."

Furthermore, the accuser does not even have to be identified. These restrainsts on cross-examination are in direct violation of the Supreme Court Ruling in Green vs. McElroy.

An added provision of the bill provides that no hearing whatsoever be held of the security clearance is denied by an official of Cabinet rank.

The bill also provides that if a defendant refuses to answer any question at all, his appeal will not even be processed. This is in violation of Graham vs. Richmond and Shoulty vs. the Secretary of Defense. Rep. Stokes called his provision "patently unconstitutional."

Another part of the appeals provision states that the courts may take no action at all until the bill's appeals process has been fully utilized. Val Klink said, "Thus, regardless of the weakness of the government's case, unless the person denied clearance takes the witness stand and subjects himself to harassment, fishing expeditions, and possible contempt charges, he will be precluded from any further legal relief. This is a violation of the constitutional premise that a person is innocent until proven guilty, and shifts the burden of proof to the accused."

Section 405(c) of the bill empowers the President, in the name of national security, to "authorize inquiries and investigations concerning any person or organization." The ACLU says that this "would give the President of the Unites States absolutist powers...."

Section 411 of the bill establishes what might be termed a "thought police." Val Klink says that this section "gives the Executive Branch the power to develop an agency to administer the act, train agenst in 'subversive theories' and suspect organizations. Armed with the unlimited powers of investigation, this agency is a potential Gestapo."

The dangers of this bill are nothing short of ghastly. When applied, it could even be used to break up strikes, since strikes curtail production. While the bill was being discussed in the House, Rep. Fraser (D-Minn.) proposed a provision which would protect First Amendment rights. The provision lost.

This bill, the Defense Facilities and Industrial Securities Act of 1970, has already passed the House, by a 274 to 65 margin. The bill is presently in the Senate Judiciary Committee and could come to the Senate floor for a vote any day now.

For more information about the bill contact The National Committee Against Repressive Legislation, 555 No. Western, 462-1329.