NIXON DECLARES WAR ON YOU

WHEN THE FBI ARRIVES

LOS ANGELES, Oct. 30 — The Justice Department has begun to move against Weathermen bombings. A series of subpoenas from a federal grand jury in Tucson; visits from FBI agents, inquiring into the purchase of dynamite in Arizona, to a number of movement houses and offices here and to relatives of L.A. movement people; FBI surveillance of persons and offices (obvious phone taps, people being followed, even cars bugged)—put this together with the fact that among the persons the FBI seems most curious about are some who used to work closely with people who have since become Weathermen; throw in the fact that a lot of bombs have been going off and that the government must be anxious to nail SOMEONE for them — and it seems to add up to the likelihood of a heavy indictment (or indictments).

Although it is not yet clear exactly what the Justice Department is up to, one thing which points strongly to a major move against the left is the fact that the U.S. Attorney connected with the Tucson grand jury is Guy Goodwin. Goodwin is the prosecutor in the case of the Seattle 8 (a conspiracy indictment of members of the Seattle Liberation Front for allegedly crossing state lines to incite riot); he also served in an advisory capacity in the Chicago conspiracy trial and has convened grand juries against the left in a number of other cities. Movement people who have dealt with Goodwin are convinced that he heads a new anti-left section of the Justice Department. His specialty appears to be the use of conspiracy law, and he is reportedly extraordinarily hard-nosed.

Reinforcing the notion that something major is going on are the facts surrounding what has happened to Teri Volpin, a Los Angeles woman who has worked for the past several months with a GI movement civilian support group. Although Teri has no history of friendships or political associations with Weathermen (or anyone of the sort), she was subpoenaed by the Tucson grand jury. When the federal marshall who was supposed to serve the subpoena on her couldn't locate her for a couple of days, a warrant for her arrest as a material witness was issued. Her bail was set at /50,000. Teri surrendered herself. Satisfied that she was not a Weatherman, the court reduced her bail to /15,000, although the U.S. Attorney argued st[illegible] against any re[illegible] with wh[illegible]

WHY THE FBI ARRIVES

DENNIS LEVITT

1. Special federal grand juries shall be created which will issue reports "concerning noncriminal conduct," even when there is insufficient evidence to issue an indictment. (Although no reports shall be issued about elected officials.) Hearsay, gossip, rumors, opinions, and slander can all be included in the report.
2. A time limit is placed on challenging illegally obtained or inadmissible evidence. After the time limit, any evidence, even if illegally obtained, can be used in court. Further, defendants might no longer have the right to review all the transcripts of government wiretapping, this being at the discretion of the judge.
3. A special sentence of up to 25 years shall be imposed on any person who is a "Dangerous Special Offender." A defendant qualifies for that category if the felony committed was "part of a pattern of conduct which was criminal" or if certain other conditions exist, such as being part of a conspiracy. Further, there is no limit on what is admissible "information" in the sentencing process.
4. Any witness before a court or grand jury who refuses to testify, or provide any information asked for, may be jailed "until such time as the witness is willing to give such testimony or provide such information" for a period not to exceed 18 months.

"Some of the aspects of the system of criminal justice S. 30 will impose are almost Kafkaesque."

"This bill represents a victory of vindictiveness and is yet another signal of the death of democracy."

"It rips off large chunks of our constitution."

"Nothing can destroy a government more quickly than its own failure to observe its own laws, or worse, its disregard of the charter of its own existence."

The four facts listed above are now law. They were passed as part of the Organized Crime Control Act.

The quotes listed above concern that new law. The first is from the New York City Bar Assn.; the second is from Congressman Cornelius Gallagher (D-N.J.); the third is from a joint report filed by Representatives Conyers (D-Mich), Mikva (D-Ill), and Ryan (D-N.Y.); and the fourth is from Supreme Court Justice Stewart in Elkins vs. U.S.

On October 15 President Nixon signed into law the Organized Crime Control Act. The bill passed the Senate (73-1) last

(please turn to page 9)

January and passed the House (341-26) on October 7. After passing the House, the bill went to a joint Senate/House Conference which quickly passed on a final version of the bill which Nixon quickly signed into law.

At the signing ceremonies, Nixon profusely praised the FBI and cited "terrorist activities we have not been able to cope with before" as a main reason for the new law. The Chief Executive said the new law "should be a warning to those who engage in these acts that we are not going to tolerate these activities."

Signing the bill into law, Nixon turned to Attorney General Mitchell and FBI Director J. Edgar Hoover and said: "Gentleman, I give you the tools. You do the job."

While Nixon, in talking about the bill, discussed "subversives" and "terrorist activities," the Congress, in their debate on the bill, discussed, almost exclusively, organized crime and how to stop it. As originally proposed by

the Administration and the bill's author (Sen. McClellan, D-Ark.), the act was supposed to be aimed at organized crime- the Mafia, Cosa Nostra, Syndicate, etc. Yet all but a few of its eleven provisions can be equally aimed at curbing political dissent and political activity.

The bill itself, on its first page, states that its purpose is organized crime.

In its "Statement of Findings and Purpose," the bill states, "The Congress finds that (1) organized crime in the United States is a highly sophisticated, diversified, and widespread activity... (2) organized crime derives a major portion of its power...(3) this money and power are increasingly used to infiltrate and corrupt legitimate business and labor unions and to subvert and corrupt our democratic process; (4) organized crime activities in the United States...(5) organized crime continues to grow...It is the purpose of this Act to seek the eradication of organized crime.."

Yet while the bill's stated purpose is organized crime (and almost all Congressional debate centered on this), its provisions seem to be equally aimed at many of the various social and political movements and individuals active in them.

Title I of the new law creates 18 special grand juries. Each special grand jury would be empowered to issue reports "concerning noncriminal misconduct, malfeasance, or misfeasance in office by a public officer or employee as the basis for a recommendation of removal or disciplinary action." Title I not only draws no definition of "noncriminal misconduct," it permits the grand jury to issue a report even when there is not sufficient evidence to indict an official.

For a person accused, the safeguards written into the bill are practically meaningless. A person named in a report is not permitted to begin their case until after the "prosecution" has presented its case. Further, the accused cannot find out the iden-

(please turn to page 31)

tity of his accusers, he is not allowed to cross-examine, and he cannot compel any documentary evidence to be present. Also, the evidence which the "prosecution" can introduce need not be "courtroom evidence." In the joint report of Mikva, Ryan, and Conyers, the Congressman state: "The evidence can be made up of hearsay, unconstitutionally obtained evidence, opinions, unsubstantiated slander, and prejudicial casuistry."

Concerning judicial review of the report, the American Civil Liberties Union (ACLU), in a letter from its Washington office, says, "The provision for judicial review is largely illusory. A report may be made public if it is supported by nothing more than a 'preponderance of the evidence' and a detailed record of the proceedings need not be kept. These procedures are totally inconsistent with the fundamental fairness guaranteed by the Fifth Amendment."

It should also be noted that the House, in slightly amending the Senate version of the bill, eliminated the grand jury's power to investigate elected officials. Only appointed officials and public employees are subject to investigation.

Title VII of the new law deals with illegally obtained evidence and how it relates to a court of law. The law reverses a Supreme Court ruling, Alderman vs. U.S., which gives defendants the right to scrutinize the transcripts of illegal government wiretaps from which evidence might have been obtained. Under the new law, illegally obtained information will be checked by the judge and only that which is "relevant" will be turned over to the defendant. While Title VII was introduced as a remedy for overloaded courts, the effect will probably be to burden the courts even more because of the job of reviewing illegally obtained evidence to determine what is relevant and what is not. The defense will probably be hampered a great deal in that much of the transcripts, which the judge might consider irrelevant, could be useful in preparing the defense's case.

Another section of Title VII would bar illegally obtained information for only five years. After that time, any information which was obtained through illegal search and seizure, wiretapping, eavesdropping, illegal confessions, etc. could be used in court as evidence, and the defense could not challenge it. The ACLU points out that this point violates a series of Supreme Court decisions going back to 1914.

Title X of the new law creates a new category of criminals- that of the Dangerous Special Offender, DSO. The determination of whether or not a defendant is a DSO comes after a plea, or a guilty verdict is reached. A hearing is held and section 3575 of Title X comes into play.

To become a DSO, a defendant must fit a two-step definition. First, to become a special offender, a defendant must be someone who (1) has twice been convicted of crimes punishable by at least one year imprisonment, one of which was within the last five years, and one of which he actually served time for, regardless of how short the time was; OR (2) the crime was part of a criminal pattern of conduct which he was skilled at and made a substantial part of his income on OR (3) the crime was part of a conspiracy. If any one of the above three situations apply to the defendant, he qualifies as a special offender and moves on to step two of the definition.

A special offender becomes a DSO if a "period of confinement longer than that provided for such felony is required for the protection of the public from further criminal by the defendant."

If a person is deemed a DSO, he can be sentenced up to 25 years, regardless of the crime committed. Further, the government has the right to appeal the sentence, if it feels it wasn't long enough.

In making his decision on sentencing, a judge may rely on information from any source, whether it was illegally obtained or not. This provision now covers sentencing of all defendants, not just DSO's.

Commenting on Title X, Prof. Peter Low, testifying before a Senate subcommittee, said, "It may well be possible under this act to convict a defendant of a minor felony carrying only a 2-year maximum sentence, charge him at the same time with being a professional offender, find him to be such an offender on the basis of information to which he does not have access, and sentence him to 25 years.

"The whole proceeding smacks of one which is motivated by an inability to prove beyond a reasonable doubt to a jury in open court the facts on which the sentence is based."

Titles II and III of the law deal with testimony before a court or grand jury. Under Title II, a witness could be forced to testify under safety of immunity, but only be safe against the use of the forced testimony as evidence against him. He could still be prosecuted. Further, the ACLU points out that there are many ways to make evidence look as if it were independently obtained, even though compelled testimony led the government to the information. The ACLU concludes, "Thus the defendant will in fact be compelled to contribute to his own prosecution in direct violation (of the Fifth Amendment)."

Commenting on Titles II and III, Frank Wilkinson, Executive Director of the National Committee Against Repressive Legislation (NCARL), said, "The so-called 'immunity' which the Nixon-McClellan law offers is false, in lieu of the protection guaranteed an individual under the privilege of the 5th Amendment. In no way does it give the witness absolute protection against subsequent prosecution. Under the Supreme Court decision in Counselman vs. Hitchcock, a witness is guaranteed absolute immunity against prosecution in the entire area of the transaction under investigation. In other words, the effect of the new 'tool' Mr. Nixon offers us is a choice of either going to jail for 18 months, or accepting his meaningless immunity."

As Frank stated, Title III gives the government even more power to compel testimony. Any witness who refuses to testify, or refuses to "provide other information, including any book, paper, document, record, recording, or other material," may be confined for a period up to 18 months. Titles II and III can also be applied to congressional inquisitions.

The effect of Titles II and III can be easily seen in the recent situation of Franklin and Kendra Alexander refusing to testify at a Federal grand jury hearing concerning Angela Davis. Marque Neal, Chairman of the Interim Initiating Committee of the United Committee to Free Angela Davis, said, "The subpoenaing tactic of getting them back to New York to testify before a Federal grand jury could be seen as an oppurtunity to grant the so-called immunity. From there, they could require all kinds of testimony concerning the Communist Party or any movement group. In effect, it's a tool for chilling First Amendment freedoms, particularly relating to dissent. It could also be used as a tool to wipe out an organization or isolate it from the community around it."

Tacked on to the bill at the last minute was Title XI. As the mass media has faithfully told you, Title XI deals with bombings and provides for the death penalty in certain instances as well as expanding the powers of the FBI in the field of investigation. The FBI can move move anywhere they want, simply by stating that there is a threat of a bombing taking place. They can move onto a college campus over the objection of the school Administration, and they can go into any city over the objection of even the local police.

Many groups and organizations including L.A.'s local establishment paper deplored the deployment of the FBI in such situations, raising fears that it could lead to the FBI becoming a national police force. TRB, a nationally-syndicated columnist, points out that this is nothing new, "The biggest excavation in Washington today is for the new FBI building, a city block square, three stories deep, and right on Pennsylvania Avenue."

To many Congressional people, one of the most startling things about the bills passage was the overwhelming vote.

In both the Senate and the House, liberal Congressmen who voted against "law 'n order" bills for awhile, flocked to the Administration's side for the Organized Crime Control Bill. In July, the House approved the DC Crime Bill by a little over 4 to 1. Now, just three months later, the House approved this new crime bill by a 13 to 1 margin, only 26 Congressman voting against the bill. At least eight Representatives, who up until this time had been in the forefront of the fight against the "crime bills", voted for this bill. Further, the House had 10 months of public debate and analysis on the bill. The Conyers-Mikva-Ryan report was read on the House floor. (This in direct contrast to the Senate, which passed the bill last January, before many Senators knew what it was all about...)

In the Senate, which Agnew says is infested with "radical-liberals," the vote was an appalling 73-1. A perfect example was Sen. Sam Ervin of South Carolina. Ervin led the Senate fight against the DC Crime Bill, yet Ervin praised the authors of this bill saying that they "deserve the thanks of the American people." The only Senator who stood up and voted against the bill was Lee Metcalf of Montana.

Although this bill is a serious infringement of our civil liberties, many other "crime" bills are waiting for the end of the Congressional recess. Frank Wilkinson of NCARL says, "The Organized Crime Law, which Congress passed before the recess, is but a taste of the repressive legislation in store for the American people when this lame duck Congress reconvenes on November 16."

To get more information on some of the bills which Congress will be considering when they reconvene, contact the NCARL,* 555 N. Western, L.A. 90004, or call 462-1329.

*National Committee Against Repressive Legislation