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Congress Debates Police State

BY ETHAN C. ELDON

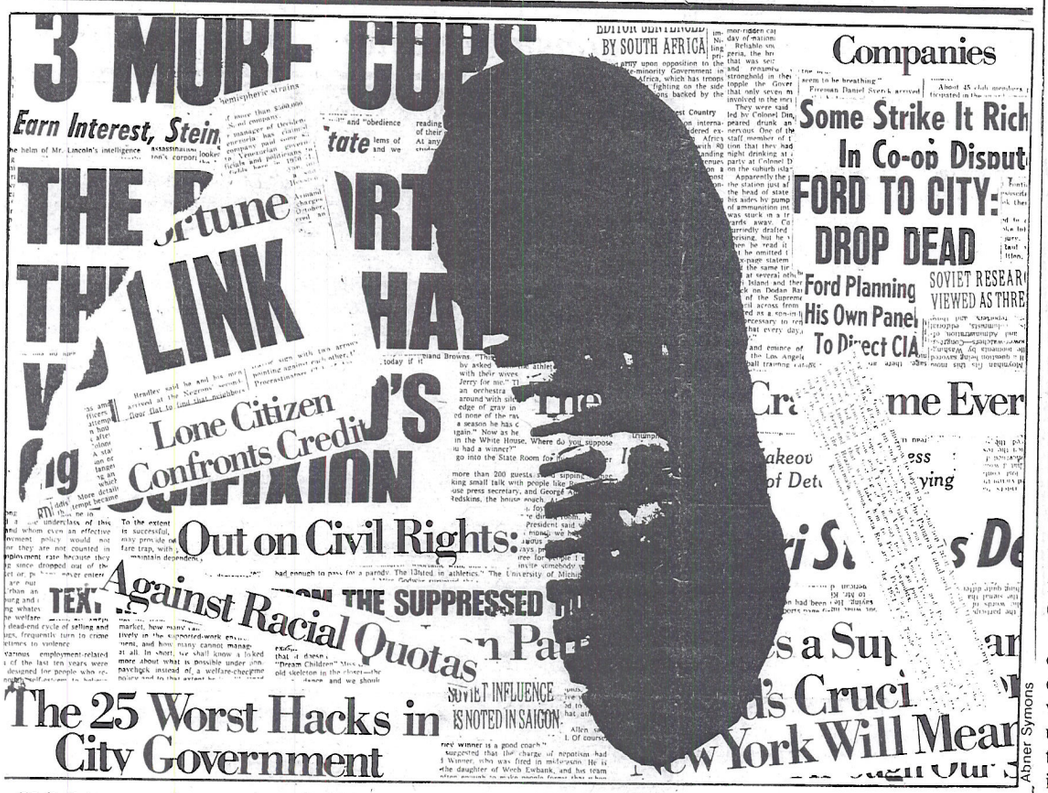
S.1 (Senate Bill 1) if passed in its present form will crush political dissent and drastically inhibit freedom of the press in this nation. It will establish harsh penalties for possession of even the slightest amounts of marijuana, further invade your privacy by allowing even more widespread wiretapping, and invoke rigid antiobscenity laws which would have banned many best-selling books and films of recent years. These are only some of the incredibly onerous elements of the omnibus 753-page revision of the U.S. Criminal Code that comprise S.1 (H.R. 3907).

The U.S. Criminal Code, which has not been revised since 1909, was ordered reviewed by a National Commission on Reform of Criminal Laws in 1966 set up by President Johnson. The commission of 12 consisted of three senators, three congressmen, three federal judges, and three members at large. Former Governor of California Pat Brown was appointed chairperson. An advisory committee of 14 was headed by former Supreme Court Justice Tom C. Clark. After five years of work, the Brown Commission submitted its final report to President Nixon in 1971. Nixon, unhappy with the pro-civil liberties direction of the Brown Commission report, directed Attorney General John Mitchell and then his successor, Richard Kleindienst, to revise the Brown Commission report and in 1973 asked Senators Hruska, Republican of Nebraska, and McClellan, Democrat of Arkansas, two of the three senators who participated on the Brown Commission (the other was Sam Ervin of North Carolina), to introduce the administration's version which, after 8000 pages of testimony and considerable bargaining among key senators, was introduced as S.1 on January 15, 1975, with the sponsorship of Senators McClellan, Hruska, Mansfield, Scott, Eastland, Griffin, Tower, Moss, and Taft.

The changes that have developed in the 10-year odyssey of S.1 have caused Senator Bayh, Democrat of Indiana, one of its original sponsors, and former Senator Sam Ervin, one of the original senators on the Brown Commission, to wind up opposing it because of the political handiwork of the Nixon Watergate gang and their revisions of key sections of the code. The impact of the Nixon revisions caused former Senator Ervin to state "S.1, in its present form, is a hideous proposal which merits the condemnation of everyone who believes in due process of law and a free society. . . . S.1 is simply atrocious and would establish what is essentially a police state."

By the time Nixon, Mitchell, Kleindienst, and company finished, they recommended what effectively constitutes reinstatement of the Smith Act, establishment of extremely heavy jail sentences that could easily be applied to reporters, editors, speakers, or demonstrators opposing government policies. The wording of

The Senate is currently considering a bill which may be the most dangerous legislative threat to civil liberties in the history of the United States.



Abner Symons

If S. 1 is passed, reporters, editors, and speakers could be subject to heavy jail sentences for opposing government policies.

hese political sections of the bill is langerously vague. Sections 1121, .122, and 1123 prohibit release of iational defense information, vhether *classified or not*, that reates to the "military capability of he United States or an associate iation; military planning, operaions, communications, installaions, weaponry, weapons developnent, and weapons research; ntelligence operations activities, lans, estimates, analysis, ources, and methods; intelligence vith regard to a foreign power; ommunications intelligence, nformation of cryptographic nformation." In short, Daniel llsberg, Victor Marchetti, and ne editors of the New York Times nd the Beacon Press would have een prosecuted for the release nd publication of the Pentagon apers under these sections. Pubcation of unclassified and ordiary industrial, agricultural, or echnical data could also be conrued to relate to one of the arious categories covered.

Section 1124 criminalizes clasfied information. Currently, doestic disclosure of information assified as confidential, secret, id top secret is *not a crime* with e exception of data relating to omic energy or cryptography—r the very good reason that govnment officials tend to classify most every document they uch! Former Supreme Court istice Arthur Goldberg—not ven to radical exaggeration—esnated that 75 per cent of clasified information is unjustifiable.

Section 1102 of S.1 would effectively reinstate the Smith Act suppressing open opposition to government policies. By replacing the word "advocacy" with "incitement to imminent lawless conduct" they would allow the United States government to imprison its citizens for merely discussing revolution or for using incendiary rhetoric—acts which are clearly protected by the First Amendment as reiterated by the Supreme Court many times in the history of the nation, most recently under Brandenburg vs. Ohio (1969) and Hess vs. Indiana (1973). The vague language of this section jeopardizes political activists, writers, or teachers whose words "could facilitate" overthrow of the government no matter how unlikely or how distant in the future, and does not pertain to actual attempts to violently overthrow the government, which is, of course, a crime. Perhaps Nixon would have imprisoned Thomas Jefferson in 1787 when he said, "God forbid we should ever be 20 years without a rebellion."

One section (1831) which ostensibly prohibits incitement to riot can be used to punish simple advocacy even when no riot occurs. Physical interference with a federal government function would become a *felony* under Section 1302. This could include picketing or demonstrating at or near federal buildings including military recruitment centers, government buildings surrounding the Washington Mall, and the like. Under this statute, even an influx of cars carrying demonstrators to the designated site might be construed to constitute a felony. The *15* to *30* year sentences for violating these and other politically motivated sections are unbelievably repressive. The Civil Rights and anti-Vietnam war movements might never have progressed as far as they did in the face of such overwhelming oppression. The effects of many sections of S.1 will seriously inhibit political demonstrations or speeches, since even the slightest tendency toward incendiary speech or opposition to government policies could bring incredibly severe action leading to expensive legal defense costs and the threat of extremely harsh penalties.

"We can't have education without revolution. We have tried peace education for 1900 years and it has failed. Let us try revolution and see what it will do now." If S.1 were law, we would have put the author of this statement, Helen Keller, in prison.

While the Brown Commission recommended that marijuana be handled as a minor regulatory problem subject only to a small fine and five states have decriminalized possession, S.1 provides a penalty for first offense possession of even small amounts of up to *30 days in jail* and a *$10,000 fine*. A second offense penalty would be *six months in jail* and a *$10,000 fine*.

Section 1842 would make it a felony to disseminate obscene material. The broad wording threatens freedom of the press and would most likely punish the authors and publishers of many of the best-selling books, magazines, and motion pictures of recent years. It would also invade your privacy to the point of placing the lender of a book to a friend in jeopardy of severe penalties.

The most ironic touch contributed by Nixon Attorneys General Mitchell and Kleindienst are sections 541 through 544, which would allow public officials to hide behind "good Nazi" wording that would protect them from prosecution as long as they could show that the violations occurred while carrying out their official duty. This would have protected the entire Nixon administration Watergate Gang from prosecution by relieving them of personal responsibility for their official actions—in direct contrast to the philosophy of individual accountability as established by the United States government at the Nuremberg War Crimes trials.

The philosophy behind the political sections of S.1 is to permit official lawlessness including a vast expansion of almost uncontrolled wiretapping and at the same time severely limit and intimidate political dissent.

Thirty organizations, including Americans for Democratic Action, the American Civil Liberties Union, Women's Strike for Peace, and the Committee Against Repressive Legislation, are cooperating in seeking either a major revision of S.1 or an alternative bill.

Are we in danger of S.1 passing? The press has largely ignored it, the Senate and House are moving forward with it in committees.

Senate Democratic Majority Leader Mansfield and Senate Republican Minority Leader Scott are cosponsors, as is Senator McClellan, chairman of the Judiciary Committee which is handling the bill.

While you still have the freedom to act, here are some ways to oppose S.1: Write to your U.S. Senators and congressional representatives; work in the Americans for Democratic Action petition drive and organizing effort against S.1 (New York State ADA, Suite 1205, 56 West 45th Street, New York, New York 10036, 869-3790), or write to the New York Coalition to Defeat S.1 (St. Peter's Church, 346 West 20th Street, New York, New York 10011), or the National Committee Against Repressive Legislation (Suite 501, 1250 Wilshire Boulevard, Los Angeles, California 90017).

If we do not vigorously oppose this legislation in both the Senate and House of Representatives, the establishment of a police state will become a grim reality on the 200th anniversary of the republic. □

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