

LEGIS

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A Blessed Respite

IT LOOKS like the most important bit of legislation before the current Congress, Senate Bill No. 1 recodifying two centuries of federal criminal law, is doomed to death this session. And a good thing too. The measure drowned under the weight of its own ineptitude and folly.

What looked like a good idea at the time, nine years ago, was creating some order out of a near chaos of federal criminal law. Then the Nixon White House got in the act, and inserted into this innocent and admirable concept its own strange notions of how to handle the great controversial issues of our time — government secrecy, wiretapping, capital punishment, drugs and obscenity.



The Nixon Gloss on the Bill of Rights was made public in March, 1973. It took more than two years for the media of the country to get on to precisely what was happening in those horrendous provisos sent over to the Senate by Attorney-General John Mitchell.

The Nixon people demanded, among other things, an American version of the British Official Secrets Act. This act has enabled British governments effectively to muzzle their media on grounds of national security since 1911. Nixon got written into the law reform bill a definition of espionage so broad as to cover divulging almost anything any government official did not want divulged.

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OTHER PROVISIONS that civil libertarians found abhorrent include imposing a mandatory death penalty in certain cases of treason, sabotage, espionage and murder; authorizing

government wiretapping for up to 48 hours without a court order; virtually abolishing insanity as a defense in criminal cases; narrowing rights of peaceful protest and assembly, and federal intervention into obscenity and marijuana cases.

As I say, the media was curiously silent about this for a long time, excuse being they had to cover Watergate, the impeachment proceedings and Nixon's exit. An *ad hoc* organization was set up to fight the offending provisions, and possibly the whole bill. This was the National Committee Against Repressive Legislation, Frank Wilkinson, director. Wilkinson said recently:

"With minor though notable exceptions there was no general news coverage in regard to the legislative evolution of S.B. 1 from March, 1973 . . . until May 1975."

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I AM rather proud of having been the first commentator on a daily newspaper to have noted the dangers of the Nixon Gloss, as Wilkinson has acknowledged. On August 17, 1973, I called S. B. 1 "the most outspoken attack on the bill of rights in our history."

To its credit, once the media caught on, about a year ago, a yeoman job was done. The Los Angeles Times was one of the first dailies to ask for throwing out the bill last September. "Legislation now pending in Congress to revise the federal criminal code should be junked. Senate Bill 1 is so pervasively and fatally flawed that it lies beyond the scope of rational amending process."

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THE conservative backers of the measure, Senators Hruska of Nebraska and McClellan of Arkansas, are now more than willing to grant the liberals the concessions they seek in payment for a bill, period. McClellan last month insisted there is "nothing sacred in the measure." He specifically offered to scrap sections making public access to a large range of government activity impossible because it could be classified by some bureaucrat as "national defense information."

Now it looks as if both Senate and House are going to have to rejigger the huge 799-page recodification bill, in a fashion that will leave the Bill of Rights more or less alone. This is a heartening victory, made possible and perhaps inevitable by the stupidity and excess of the Nixon White House.