Liberty

VOL. IX CITIZENS COMMITTEE FOR CONSTITUTIONAL LIBERTIES Fall, 1970

Nixon-Mitchell Team Wins Police-State Law

"If ever I saw a blueprint for a police state, this is it", said Senator Sam J. Ervin, Jr., Chmn Constitutional Rights Comm, as the Senate passed the D.C. Omnibus Crime Bill (July '70) with its 'preventive detention and 'no-knock' provisions.

"A Model of Injustice" editorialized the N.Y. Times; Professor Tribe of Harvard Law, held that Attorney General Mitchell has offered "a pound of detention for every ounce of cure". The Citizens Committee for Consitutional Liberties warned that the Administrations seeks 'preventive detention' as a "blank-check for repression and internment...for the alleged crimes of active opposition to its policies of extending the Vietnam war, reduction of critical urban funds and reversal of integration programs."

President Nixon, impatient at the year long, strong resistance to the unconstitutional aspects, quickly signed into law the crime bill for what is commonly known as the colony of D.C., saying "I hope this is only the beginning." And so it was! Within two months the most disreputable law-and-order bills were paraded before a retreating Congress for action.

Although there was major contitutional, organizational and editorial opposition, the impact of the organized right-wing pressure told in the D.C. Crime Bill discussions. Many Senators, known for liberal views, wilted in the sizzling law-and-order election year atmosphere. Whereas a year earlier the Senate had voted for the Bill without 'preventive detention', they agonized and switched 54-33 for a bill that was a "little bit" *unconstitutional*.

Joseph D. Tydings (Md), Chmn Senate DC Committee, leading the fight for the D.C. Crime Bill, said: "to those who say this bill is anti-black, I say that crime in this 70 percent black city is anti-black." Playing for electoral support from the Gun Lobby he rejected the sharp opposition of black leadership and all testimony detailing the racist nature of the tough crime bill. Ignoring constitutional questions of burglar-like 'no-knock' entry and biased detention for color and political actions, the Senator chided the Nixon Administration for a "clumsy performance...(which) has frightened, divided and discouraged too many Americans..."

Senator Percy (Ill), who was totally opposed to the worst features, switched to vote for the House-Senate Conference Bill which included them. He explains that 90 percent was non-controversial and "it was necessary either to reject the bill or swallow it whole...I chose to gulp a bit, then swallow, and in retrospect I am convinced of the rightness of this course." He rationalizes that "no-knock" and "preventive detention" have always existed in some form...are now valuable tools for the District officers in the fight against narcotics, organized gambling and national security...without in anyway infringing on the rights of citizens."

The fact is that Senator Ervin repeatedly offered a new bill to encompass the 90 percent beneficial sections, on defeat of the DC crime Bill. Nor could they refute his argument "that there is not a single syllable...in the whole conference report (243) pages that provides that a man is to be released after he has been preventively detained for 60 days."

Senator Percy's use of the term "national security" helps reinforce the conviction that this law will not be used against criminals but to 'legalize' increased judiciary and police actions against so-called "dangerous" political activists.

Shades of the '50s, when a similar combination, Nixon-McCarty,—McCarran-Eastland, using the political hysteria of McCarthyism was able to numb the democratic sanity of enough liberal-minded Congressmen to pass the McCarran Internal Security Act 1950. There are frightening similarities in tactic and intent between the new "preventive detention" provision and the McCarran Act Title II ("Emergency Detention")—called the concentration camp law.

In both laws Government officials are given right to detain, without trial, those who in his opinion **might probably** commit a crime. Under McCarran Act Title II, it is the Attorney General, who, during an internal security emergency, can pick up and detain, without due process, those who might conspire to commit treason; under "preventive detention" it is the Judge who can remand to prison without bail, prior to due process, a defendant he considers might be a "danger to the community."

Under both laws the pretrial determinations, in great measure influenced by political and racial atmosphere, can open the way to endless incarceration.

The Extreme Right has won round 1 in legislation for repression. Are they creating enough discouragement and demoralization to win a new era of fear and silence? Or will the voters take on the right and responsibility to either give backbone or the boot to their Legislators.

ITS YOURS—USE IT

Bill of Rights

of the United States Constitution

Article I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and to petition the Government for a redress of grievances.

Article II.

A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

Article III.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

Article IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Article V.

No person shall be held to answer for a capital or other infamous crime unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; *nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law;* nor shall private property be taken for public use without just compensation.

(Italics added)

Article VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which districts shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Article VII.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law.

Article VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Article IX.

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

Article X.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

DON'T BE AGNEWED OUT OF IT!

HISC Asks 'Constitutional' Concentration Camp Law

The House Internal Security Committee (HISC, formerly HUAC), Rep. Richard Ichord (Mo) at its helm, has finally found a place for itself in the Nixon law-and-order scheme. It has set out to make a 'constitutional' concentration camp law. It has voted 7-1 to recommend a 'modified' McCarran Act Title II.

The repeal bill that was under consideration (S1872), was passed unanimously by the Senate in Dec. '69, following a statement by Assist. Atty. Gen. Kleindienst that "In the judgement of this (Justice) Department, the repeal of this legislation will allay fears and suspicions—unfounded as they may be—of many of our citizens."

For 6 months Congressmen, constitutional experts, bar associations, black and Japanese-American leaders and others testified to the unconstitutional, inhuman and dangerous character of the McCarran Act Title II. But they might just as well have been talking to a blank wall, because Chmn Ichord argued for 'modification' since the beginning of the hearings.

With twisted logic, he maintained that if the McCarran Act existed during World War II, the order for the Japanese-American round-up could not have been issued by Pres. Roosevelt. In fact, Title II authorizes just such a pick-up and detention, ordered by the Atty Gen., when the President declares an internal security emergency in the event of 1) invasion of US 2) Congressional declaration of war 3) support of enemy in guerilla warfare. Hundreds and thousands have been computerized by the FBI for just such a time.

J. Walter Yeagley, Assist. Att. Gen. in charge of Internal Security appeared for the Justice Dept. before HISC. They again asked for repeal of Title II "Emergency Detention" law on grounds that it has created "unfounded suspicions, alarmist pressurees and apprehensions." His denial that it was a concentration camp measure, or unconstitutional or discriminatory, convinced Congressman Ichord that there would be no serious Government opposition to rejecting the Repeal Bill and proposing a 'modified' Title II.

After closing the hearings HISC voted 4-4 on the Senate Repeal Bill S1872. Then without further public hearings, Ichord put to vote the Ichord-Ashbrook Bill (H19163) which does not delete any of the emergency detention provisions, but merely redefines some the procedures for incarceration—to create an illusion of constitutionality. The startling vote of 7-1 in Committee should shock many Congressmen and organizations back into action for total repeal.

The major exposure of McCarran Act Title II, the 6 camps established under it (Avon, Fl; El Reno, Okl; Florence & Wickenberg, Ariz; Tule Lake, Cal; Allenwood, Pa) and the FBI plan "Operation Dragnet," was written in an eye-witness account "Concentration Camps—USA" by Charles R. Allen, Jr. This was commisioned and published by the Citizens Committee for Constitutional Liberties in 1966.

Alarmed by this report, 16 members of peace, black, student, political, Chicano, civil liberties and rights groups initiated a court challenge to the constitutionality of Title II (Bick vs Michell). They charged that the very existence of the law had a chilling effect on their rights to free speech, association, and support from others. It threatened endless incarceration without benefits of due process and trials.

Should the HISC-Agnew crew succeed in using the old HUAC tactics to prevent repeal of the concentration camp law, the decision may well be up to the courts.

Congress Gives President Dangerous Catch-all Crime Law

Under the Administration drumbeat of "law-and-order" the House and Senate succumbed to pre-election pressures and within two days, Oct. 7-8, gave the President the catch-all Omnibus Crime Control and Safe Streets Act.

In a ruthless move to secure another crime bill of doubtful constitutionality, President Nixon publically threatened to by-pass the House Judiciary Committee and bring S30 to the House floor for a vote. Chairman Celler yelled unfair tactics—"your putting a gun to my head"—and acceded to the demand.

In days and night sessions, to the gory litany of "crime in the streets" bombs and threats, Congress swept aside all the sane and thoughtful testimony by experts and concerned citizens, and combined 5 bills into one monstrosity, of questionable constitutionality. Ostensibly the main features, which are supposed to be directed against organized crime, drug and assasins, can easily be applied to the Agnew version of "dangerous" criminal—the liberal, radical and political independent. The Act includes the worst aspects of S30 in the open'ended, politically-oriented category of "dangerous special offenders" is given mandatory sentences up to 30 years. Should a judge do less, the Government can appeal for the stiffest sentence. Denator Kennedy (Mass) noted, when the Senate passed the bill,—the government thinks that Dr. Spock is a "dangerous offender".

A new attack on fifth Amendment protection is the section forcing a witness to testify—with internment without bail up to 36 months for refusal. Although the teestimony could not be used as evidence against the witness, there is no protection against prosecution as a result of the findings following the testimony.

The hard won Supreme Court decisions giving a defendant the right to illegal wiretap material, would be reversed and all unknown to the victim, such illegally obtained evidence could be used in the courts after 5 years.

Capital punishment was established in a Federal Crime control roster as the death penalities for those convicted of fatal bombings and assassination was added while Senator McClellan (D-Ark) denounced the "arsonists, the revolutionaries, the saboteurs running our country."

Only 26 Representatives and no Senators voted against this bill...Citizen, USA will suffer the consequences, until there are some fighting-style Congressman and non-Nixon Supreme Court to reverse the hysterical "law-and-order" trend.

"Blank Check For Repression"

STATEMENT ON "PREVENTIVE DETENTION" BILL S-2600
before Senate Constitutional Rights Committee, 6-18-70
by MIRIAM FRIEDLANDER, Executive Secretary

Editorial comment has charged that the Administration is seeking a "blank check" to extend the war in Indo-China. In the same vein we hold that the Administration "Preventive Detention" Bill would serve as a blank check for repression and internment. The term "a danger to the community", now so popular with the Attorney General in his "law and order" bills, is not a definition of a crime, but a political and pragmatic estimate directed against those who will repeat and repeat the alleged crime of active opposition to the Administration policies of extending the Vietnam war, reduction of funds for critical urban needs and reversal of integration policies.

The questionable rationale and the suspect nature of the Justice Department Bill is revealed in the report (6-5) of the D.C. Judicial Courts Comm. to Study Operation of Bail Reform Act (5-69). The majority report hedged:

"...although absolute predictability of future cominal conduct is not possible, a court should be permitted, in its discretion, to deny bail in cases where defendants a) "allegedly" commits crime "while on bail"; b) "on probation or parole"; c) may pose a "danger to the community"; d) "alleged crimes committed in the context of a civil disorder".

The Minority Report was forthright:

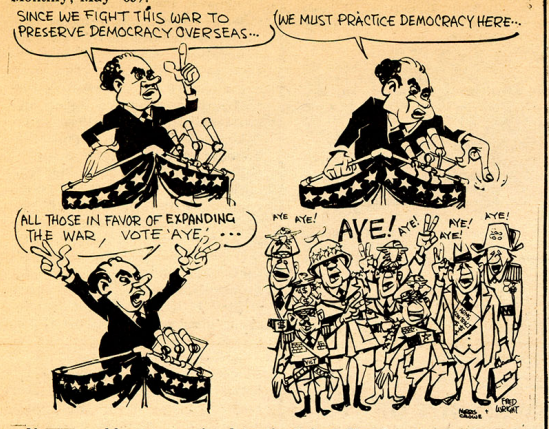
"The right of pretrial release should not be the sacrifical lamb of an inadequate system of justice...Only a few years ago, the term preventive detention made people think of Germany and South Africa. While its repeated advocacy here has threatened to make it respectable..."

The tragic history of our country has been that in times of fear and hysteria, such as the present, we have been willing to tear up the Constitution and allow internment—concentration camp laws for American people of differing faiths, philosophies, or ethnic groups. The main thrust of such blatantly unconstitutional legislation has been against political dissidents, not the burglary and rape criminals.

During World War II, Japanese-Americans were ruthlessly swept out of their homes into concentration camps—without hearings or due process—because they might have been a "danger to the community". Proponents of "preventive detention" decry the issue of color and argue the objectivity of judicial decisions. In that case, even the Supreme Court bowed to the Military dictat.

In 1950, the anti-communist hysteria blanked out constitutional sanity, allowing passage of the McCarran Act—with its Title II under which concentration camps were established. This opened the shameful McCarthy era during which lower courts upheld the punishment of political dissenters on grounds that they might be a "danger to the community".

In this period, the blank-check terminology of "a danger to the community" is a euphemism for dissent and demonstration. Couple this with "civil disorders," then the intense Administration pressure for "preventive detention" becomes a plea to legalize endless, indiscriminate and wholesale jailing, without charge or trial for dissenters and-or those associated with them. In 1967 the Johnson Administration had prepared such a detention are for hundreds of peace demonstrators at the Pentagon; thousands have been caught up and so held in civil rights marches, in Detroit and after other urban disorders. This Bill would give concrete form to suggestions by some current government officials—such as Mr. Agnew's proposal to "separate out the rotten apples" and Mr. Kleindienst's threat that "If people demonstrated in such a manner as to interfere with others, they would be rounded up and put into concentration camps." (Atlantic Monthly, May '69).

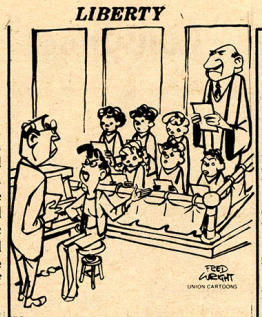


No proposal for "preventive detention", including Senator Goodell's Bill, meets the most elementary requirements of constitutional guarantees. Denial of bail for 60 or 30 days if the judge held the accused to be a "danger to the community" would smash the right of presumption of innocence, reasonable bail, a fair and speedy trial. A long list of emninent constitutionalists, headed by the incisive analysis of Senator Sam J. Ervin, Chmn of the Constitutional Rights Comm., every Bar Assoc. and civil liberties organization, nation-wide national groups and concerned citizens, leading columnists and editorial opinion, have detailed these conclusions and many more. Reflecting the shock and fear engendered by the persistant Administration pressure for this discreditied legislation-including the attempt to sneak it through the D.C. Omnibus Crime Bill—they have taken a strong stand in opposition.

While criminal activity is an appalling reality, the proposed "presentive detention" program would tend to increase, rather than decrease the crime rate. 1) The increased denial of bail, jamming of jails, delayed court calendars, hasty and biased decisions will inevitably lead to a crisis in confidence, demoralization and a higher rate of crime. 2) Chief General Sessions Judge Harold Greene testified that he would probably have to jail 10 to hold one repeater. The recent National Bureau of Standards report indicates that only 5 of 100 jailed would repeat a major crime. There is no better intensive course in criminal activity for the 9 and 95 than our over crowded jails.

Criminal activity, born of ignorance, discouragement and denial, can be reveresed only through extension of constitutional guarantees, programs for liberalized bail, increased judiciary, courts, supervisory personnel, etc. But only the reversal of the budget flow from war to basic needs of jobs, training, medical aid, housing, etc. can give Congress the power to cut the roots of poverty, prejudice and violence—breeders of crime.

We urge the rejection of the "Preventive Detention" Bill which is seen as a threat to the democratic rights of the people.



So what if he was sent here to hunt Reds...
He is ruining our Junior Choir..."

ACTION BOX

1. TO CONGRESSMEN
Repeal, don't modify'
McCarran Act Title II!

Defeat Ichord Bill HR19163
Support Inouye Bill S1872

2. TO STATE LEGISLATORS
A commitment against
'preventive detention', no-knock
and other repressive laws!

Not My John Hancock, No Sir

MIAMI (AP)—Only one person out of 50 approached on local streets by a reporter agreed to sign a copy of the Declaration of Independence, which had been typed in the form of a petition.

Two called it "commie junk," one threatened to call the police and another warned the reporter: "Be careful who you show that kind of antigovernment stuff to, buddy."

The one man who agreed said it would cost the pollster a quarter for his signature.

Comments from those who took the trouble to read the first three paragraphs:

"This is the work of a raver."

"Somebody ought to tell the FBI about this sort of rubbish."

"Meaningless."

"I don't go for religion, Mac."

"The boss'll have to read this before I can let you put it in the shop window. But politically I can tell you he don't lean that way. He's a Republican."

The reporter took his idea from a questionnaire which had been circulated among 300 young adults attending a Youth for Christ gathering, and showed that 28 per cent thought an excerpt from the Declaration had been written by Lenin.

The youths, mostly high school sensiors, were then asked to describe briefly what sort of person they thought would make such a statement.

Among other things, the author of the Declaration was called:

"A person of communism, someone against our country."

"A person who does not have any sense of responsibility."

"A hippie."

"A red-neck revolutionist."

"Someone trying to make a change in government—probably for his own selfish reasons."

N.Y. Post. July 4, 1970

From Congress to CCCL

"Thank you for your support of my fight against the unwise and unconstitutional provisions of the DC Crime bill...the answer to crime will not be found in such unwarranted and repressive devices as 'no-knock' search authority and preventive detention...we must work even harder to model legislation which will give life and meaning to the Sixth Amendment speedy trial guarantee." (S3936)

Senator Sam J. Ervin, Jr Chmn. Constitutional Rts. Sub Committee.

"Thank you for getting in touch with me about the District of Columbia Crime Bill...I was among the 33 who voted against the bill...court tests are planned for various provisions..."

Senator Clifford P. Case (N.J.)

"I voted against passage for reasons stated in the attached speech..."("I have decided the issue on grounds that civil liberties and constitutional rights dictate that my vote shall be against it;") Please be assured that I will watch closely the controversial features...to see if there are abuses and endeavor to correct them."

Senator Jacob K. Javits (NY)

"Thank you for sending me the latest issue of LIBERTY...I share fully your concern that Title II of McCarran Act be repealed...introduced legislation that would amend the US Code to "prohibit the establishment of emergency detention camps..."

I also share your opposition to preventive detention...(enclosed) copy of my speech ("Its allowing for preventive detention of suspects up to 60 days on a judicial finding of probable guilt is not only unconstitutional...but will not alleviate the crime problem in any way."

Rep. Richard L. Ottinger (N.Y.)

"Preventive Detention and 'no-knock' measure passed by Congress are a constitutional give-away to the law-and-order forces. They crack down on the rights of people—presumption of innocence, reasonable bail, speedy and fair trial instead of cracking up the jammed court calendars and the corrupting prison systems. Any serious anti-crime program must tackle the national shame of ghetto living and dying."

Bella Abzug, Candidate 19th Cong. Dist.

"Thank you for...the Spring issue of LIBERTY, and I read it with great interest...I am a sponsor of a measure to repeal Title II of the McCarran Act.

Rep. Edward I. Koch (N.Y.)

"I appreciated receiving your Action Memo...I voted against the DC Crime Bill,,,enclosing a copy of statement ("Constitutional defects are not the only charges of "preventive detention."...the language of the bill leaves very important terms undefined and written in broad strokes."

Rep. William F. Ryan (N.Y.)

Senator Vote on DC Crime Bill

Against 33

24 DEM: Anderson (NM), Bayh (Ind), Church (Id) Cranston (Cal), Eagleton (Mo), Ervin (NC), Fullbright (Ark), Gravel (Alas), Harris (Okl) Hart (Mich), Hughes (Io), Jackson (Wash.), Jordan (NC), Kennedy (Mass), McCarthy (Minn.), McGovern (SD), Metcalf (Mont.), Mondale (Minn.), Muskie (Me), Nelson (Wis), Ribicoff (Conn), Stennis (Miss), Williams (NJ) Yarborough (Tex). Paired against: Young (O), Magnuson (Wash) Inouye (Hi)

9 GOP: Brooke (Mass), Case (NJ) Cook (Ky), Cooper (Ky), Fong (Hi), Goodell (NY) Javits (NY) Mathias (My), Packwood (Or.)

"I very much appreciate...recent note and ...LIBERTY with regard to McCarran Act and DC Crime Bill...have introduce legislation that would repeal Title II...I oppose the concept of preventive detention."

Rep. Ogden R. Reid (N.Y.)

"Thank you for advising me of your opposition to the conference report on D.C. Crime Bill...I led the fight along with Senator Ervin, to defeat the conference report...-many of the provisions...were unsound and unconstitutional...I sponsored an alternative measure which included court reform...but deleted wiretapping, mandatory minimum sentences, preventive detention, no-knock entry..."

Senator Charles E. Goodell (NY)

(To our knowledge, Sen. Goodell has not withdrawn his own bill for a "modified" preventive detention. Editor)

"In summary, although I shared some of your reservations about this (DC Crime bill, I feel that overall it is appropriate legislation and sufficient safeguards are built in..."

Senator Richard S. Schweiker (Pa)

"However, 90 percent of the measure was non-controversial and provided urgently needed reforms. Since it was an up or down vote, it was necessary either to reject the bill or "swallow it whole". I chose to support the bill for without it, there would have been no crime bill for the district."

Senator Charles H. Percy (Ill.)

Senators Mark Hatfield (Ore. and Strom Thurmond (SC) acknowledged receipt of CCCL material, but made no comment on the legislation.

Check List

CONCENTRATION CAMPS-USA
by Charles R. Allen, jr. at 70c. .....$_____

PREVENTIVE DETENTION in America's
Concentration Camps by Paul L. Ross at 15c ..... $_____

McCARRAN INTERNAL SECURITY ACT '50 #7
& '68 Amendment—full texts at 50c. .....$_____

LIBERTY GREETING CARDS .....$_____
8 diff. cards, artists, sayings, in color,
for every use, Reg. $1. now 50c per set .....$_____

MEDITATION, Etching
by Jack Bilander — Reg. $15—now $10 .....$_____

CONTRIBUTION .....$_____
Enclosed find TOTAL .....$_____

Name .....

Address ..... Zip .....

In Our Opinion . . .

"Danger Signals"

JUSTICE is not an academic plaything. It is a special-political decision deeply entwined with the gut issues of the day. Today the Administration, shaken by the exploding anger against continued war, mounting economic problems, and blatant discrimination, is desperately trying to reshape the laws for a self-serving version of Justice.

A simple formula has been evolved over the years. Associate popular demands for change with 'violence' (preferably against the government); brand the acts to effect socially-necessary change as 'crimes' (against society); and in the ensuing political hysteria pass legislation to nullify major portions of the Bill of Rights.

In 1788 the established men of property rights, fearful of the rising popular demands for democratic and economic reforms attacked those inspired by the French Revolution "Jacobin-Socialist" ideas of liberty, equality and fraternity. Passage of the Alien and Sedition Laws establishing their criminal status as 'traitors' was designed to stifle the popular movements. But popular reaction in 1790 swept Jefferson in and these laws out.

In the early 1900s, major industries whipped up comany-town politics to put the brand of 'anarchism'—so-called violence against the state—on the infant union organizing attempts. State Anarco-Syndicalist laws were passed to outlaw the use of free speech, press and association to those 'conspiring' to create an association to fight company domination. Unions finally grew strong enough to stop the tragic use of these laws. But most of them are still on the books and dragged out to be used against militant students, blacks and political independents.

During the rising opposition to the Korean War, McCarthyism was legalized in McCarran Internal Security Act, 1950. Those opposing all and any aspect of cold-war policies were branded as conspiring to be traitors against the government. Pres. Truman said in his veto message: "It would put the U.S. Government in the thought-control business." In 20 years the courts have nullified every unconstitutional aspect of Title I of the law...self registration, denial of jobs, passports, association, etc. Facing a new wave of political independents Johnson-Dirkson won a Congressional Amendment to this section, also rejected by the courts. But Atty Gen Mitchell has just initiated two new cases against young peace and socialist-oriented groups.

Title II of the McCarran Act put the U.S. Government in the concentration camp business. So fearful have the peace, black, student, Spanish-speaking, Japanese-American, church, community, and professional movements become about the existence and threatened use of this law, that the Justice Department was forced to appear in behalf of repeal, but at the same time staunchly defends its constitutionality.

By 1970s, this type of legislation for endless internment, without protection of the Bill of Rights, is becoming the guide-line for Justice—Establishment—style (for self-preservation). The Danger Signal for this new era of stark repression is "dangerousness." Agnewism has made this synonymous with liberalism radicalisms and wide-spread opposition to the government war machine...at home and abroad. Nixon and Mitchell have used the crime-wave hysteria to secure the ultimate in punitive measures against those whom the Extreme-Right considers a "danger to the community": 'preventive detention'...free-wheeling police entry, wiretap, denial of bail, forced self-incrimination, 'conspiracy' prosecutions, FBI and CIA harrassment and intervention.

History has shown, that the American people will sooner or later reclaim their birthright and put the Bill of Rights to use in destroying the repressive measures. But how long will Legislators retreat under the spurious "hart-hat" "silent-majority" threats, when the reliable polls show a marked decrease in support of Nixon policies? How long before a vigorous new generation rejects the twisted tauntings of the Agnew brain-wash, and make powerful new political music together? How many tragic "incidents" and unjust "internments' before people will recognize the "Danger Signals" and vote out—remove from power—the masters of repression.

A TRIBUTE

TO WILLARD UPHAUS

ON HIS 80TH BIRTHDAY

Willard Uphaus

On Sunday Afternoon at 1:00 PM—November 22, 1970, we will have the unique opportunity to celebrate 80 years of dreams, aspirations and accomplishments in the person of Dr. Willard Uphaus. Our tribute to him is a recognition of the hope and dedication he inspired in hundreds of thousands of people to work together for a peaceful and better world.

Being co-chairman of the Citizens Comm. for Constitutional Liberties, is only one of the long list of responsibilities he undertook in a life-time's work for peace, labor and religious understanding and civil rights. The high-light was his refusal, as Director of World Fellowship Camp in New Hampshire to surrender the guest list...and spending a year in jail at the age of 70.

The event, sponsored by World Fellowship will take place at the Hotel Roosevelt, 45th St., N.Y.C. with an exciting program and refreshments. Tickets ($5) are available at CCCL-22 E. 17th St., N.Y. 10003.

SEE 1971 LIBERTY CALENDAR ON PAGE 4

"Conspiracy" Law-Instrument For Repression

(excerpts from an article in preparation)

by Paul L. Ross, Esq.

The government use of the "conspiracy" law as an instrument of oppression is of ancient origin. It has been variously characterized by some Judges, legal scholars and writers as the "prosecutors darling"—the "government's shabbiest weapon",—"an elastic, sprawling and pervasive offense"—a "scatter gun" to bring in masses of victims.

An early political reformer Democratic party leader and distinguished Massachusetts lawyer in the 1840s, defended seven shoemakers, members of the Boston Journeymen Bootmakers Society who were indicted for "conspiracy" because they demanded that a worker be fined for violating union rules—working overtime without pay. He branded the "conspiracy" charge as "part of Enlish tyranny from which we fled"—was repugnant to freedom and should not be accepted in this country.

Another Jacksonian held that "conspiracy" charges against unions was "ambiguous, baseborn, purblind" and had its origins in "folly, barbarism and feudalism" and was enlarged by distorted judicial reasoning until it became "rank poison."

This most drastic and dangerous weapon in the Establishment's arsenal of repressive weapons derives its sanction from a section of the Crimes and Criminal Procedures, and reads in part:

"If two or more persons conspire either to commit any offense against the United States, or to defraud the United States or any agency there-of in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined not more than $10,000 or imprisoned not more than five years of both."

For a charge of "conspiracy" to stand up in court, there must be alleged and proved: 1) a "conspiratorial agreement" by the accused "conspirators" 2) "overt acts" by one or more of the accused to carry out the objectives of the "conspiracy."

"OVERT ACTS"

What are "overt acts" and how do they affect the scope and fairness of a trial in a "conspiracy" case? They are supposed to be the evidence that proves the existence of a "conspiracy," the concrete indications of the so-called "conspiracy"—and a part of it. It may be an act by one of the accused that took place after the accused had joined together in the "conspiratorial agreement." The "overt" acts alone need not constitute criminal conduct. They may be innocent acts—not even significant acts—a telephone call, the mailing of a letter, or engaging in a conversation.

In the Oakland Seven Case—the indictment cited these "overt" acts:

1) chartering buses to take people to Oakland; 2) distributing leaflets; 3) oepning a bank account in the name of Stop The Draft Week; 4) transporting loud-speaker equipment 5) making speeches; 6) walking around downtown Oakland with a "monitor group."; 7) renting a hall for a meeting.

Similar "overt" acts were charged against the defendants in the Chicago Eight "Conspiracy" case and in the indictment of Dr. Spock and his "co-conspirators."

Under the "Conspiracy" doctrine, an accused can be found guilty of a "crime"—the "conspiracy"—although the "overt acts" would not be criminal if carried out singly by anyone of the accused (a practice peculiar to Anglo-American law).

Holdsworth, who wrote the **History of English Law**, says that for five centuries, since the

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English Statute of Laborers, Anglo-American criminal law had attempted to suppress the collective efforts of workers to improve their working conditions. The "conspiracy" doctrine became an instrument of repression in 1611, when it was applied by the Court of the Star Chamber in the Poulterer's Case. (workers who handled poultry). It established the rule that it was no defense to a charge of "conspiracy" that the "conspiracy" did not have harmful consequences, i.e. that any single individual did anything illegal—or that anything illegal happened. It was enough that workers got together to organize.

NO CRIMINAL ACTS

The law of "conspiracy" permits the prosecutor to convict the accused without proving any criminal act, as committing acts of violence against the government, or committing acts of espionage by turning over atomic secrets to a foreign government. The leaders of the Communist Party were convicted of "conspiracy" to teach and advocate the overthrow of the government by force and violence. There were no acts of violence charged or proven.

Julius and Ethel Rosenberg were not electrocuted because they transmitted atomic secrets to the Russians. Such a charge was neither made nor proved by the prosecutor. They were charged and convicted of "conspiring" to commit espionage.

Dr. Benjamin Spock and his "co-conspirators" were charged and found guilty of conspiring to counsel draft registrants to evade military service; to turn in their draft registration cards and classification notices. There was no charge that they actually helped anyone to evade the draft.

In the history of the labor movement, in its long struggle for organization and existence, the most effective legal weapon against the struggling trade unions was the doctrine that the concerted activities by workers were "conspiracies" and for that reason illegal.

In the English case of the Journeymen Tailors of Cambridge (1720), the Union sought wage increases and the Court held that this constituted a criminal "conspiracy". In 1800 Parliament passed a law which perpetuated the "conspiracy" sanctions against every worker who "enters any combination to obtain an advance of wages, or to lessen or alter the hours of work." For decades the trade union organization was manacled.

The cases of the Boot and Shoemakers of Phila. (1806), Journeymen Cordwainers of N.Y. (1811), and Pittsburgh (1815) and the Geneva, N.Y. Strike Case (1835) follow the English precedent. In the N.Y. Tailors Case, the trial judge declared that " American knows that...he has no better friend than the laws and that he needs no artificial combination for his protection. They are of foreign origin..." A week later, the anti-labor judge was burnt in effigy at a N.Y. mass protest meeting of 27,000 workers. In the fall elections, three of the four radical Jacksonian Democrats were elected to Congress.

The "conspiracy" doctrine was enforced by the courts as the law of the land, "until the right of the workers to organize and bargain collectively" was legitimized by Congress in the Wagner Labor Relations Act, during the first Franklin D. Roosevelt Administration.

For a long time there has been a dangerous drift in the Federal Law of "conspiracy"—acknowledged by the Supreme Court. The late Justice Jackson noted the unavailing proteest of courts against the growing habit of the Government and its prosecutors to indict for "conspiracy" in lieu of prosecuting for the offense itself.

DRAGNET OF CONSPIRACY

Almost half a century ago, Chief Justice Taft declared that the statute was "being much abused" and that "the rules of evidence in conspiracy cases make them most difficult to try without prejudice to an innocent defendant." The late Judge Learned Hand observed "So many prosecutors seek to sweep within the dragnet of conspiracy all those who have been associated in any degree whatever with the main offenders, that there are opportunities of great oppression."

The great railroad strike in 1894, was led by Eugene Victor Debs, American Railway Union President. Debs and the whole Union Executive Board, were indicted for "conspiracy." They were defended by Clarence Darrow, greatest and most effective labor lawyer for over a half a century. In his defense he came up against the historic purpose of a "conspiracy" charge—to cover anything that, by fact or construction, might justify a conviction.

Summarizing his defense of Debs, Darrow declared: h "If there are still any citizens interested in protecting human liberty, let them study the conspiracy laws of the United States. Today, no one's liberty is safe...they have gone so far that they can never be changed except through great protest by liberty loving men and women...against the spirit of tryanny that has battered down the ordinary safeguards that laws and institutions have made to protect individual rights."

Verbal Abuse of Police Is Outlawed in Toledo

TOLEDO, Ohio, Sept. 19 (AP)—Anyone calling policemen "pigs" will be arrested under provisions of a new city ordinance prohibiting verbal abuse of law-enforcement officials.

The city Safety Director, Clifford Quinn, in a special message to all members of the police division, ordered arrests made for violations, adding that persons making noises such as "oink oink," also were subject to arrest.

"Imitating noises made by such animals also can be construed as verbal abuse," Mr. Quinn said.

Conviction on abuse charges can bring a maximum sentence of 30 days in jail and a $50 fine.

N.Y. Times 10-19-70

Witchhunters Ride Again

Attorney General Mitchell is trying to breath new life into the hang-over from the McCarthy era—the McCarran Internal Security Act, 1950. He has petitioned the Subsersive Activities Control Board (SACB) to designate the Center For Marxist Education and the Young Workers Liberation League as "communist-front" organizations.

For twenty years the courts have thrown out every SACB finding against organizations and individuals requested by the Attorney General and based on FBI paid informer testimony. The badly mangled law and idle SACB members (at $36,000 per) were given reprieve with a Congressional Amendment to the McCarran Act which eliminated self-registration and substituted an Attorney Gen. political black-list. The cases against 10 individuals, initiated under the amended law were thrown out of court in '68 and the Supreme Court refused to hear the Government appeal.

Opening new cases under a discredited law is a familiar pattern by the Justice Department for hounding young Marxist organizations. The former Atty Gen. Katzenbach was asked in '66 why he used the disreputable McCarran Act to launch a case against the Socialist—oriented DuBois Clubs. He replied that just initiating such prosecutions has served to destroy 23 organizations and "wasn't this the major purpose of the law." The DuBois Clubs have since disbanded and the Government dropped the case.

The new persecutions are timed with the Administration crusade to put the onus of crime and violence on the anti-war liberal and radical students on the Black, Chicano, Puerto Rican ghetto militants; and justify attacks by police, state troopers and extreme-right elements.

The SACB may have a $401,000 budget with which to persecute young radicals, but the Government still has to face John Abt and Joseph Ferer, Attorneys for the defendants, who have convinced the courts to throw out all the other cases. And at this time, the government attacks appear to be encouraging—not discouraging—broad democratic support for the two young organizations.

MORE WITCHHUNTERS

No period of galluping fear-mongering would be complete without the expert help of the House Internal Security Committee (HISC formerly HUAC).—whose new chairman Richard Ichord (Mo) uses new FBI stool pigeons and old McCarthy tricks to attack the peace movement.

Target: New Mobilization Committee to End the War in Vietnam which for several years has been the main coordinator of major peace demonstrations. Method: Summon for hearing harrassment Arnold Johnson, Communist Party Legislative Director, who is one of the many New Mob Committee members representing a broad strata of social and political views. Procedure: Without having to prove any illegal act or abide by court protected procedures, infer that the participation of a CP representative—and those that may agree with his anit-war

stand—makes the peace movement subversive. Object: To fracture and destroy the broadening opposition to Mr. Nixon's war policies.

Mr. Johnson refused to appear on June 11, 70 on the grounds that he would not aid HISC in its efforts to divide the peace movement. His refusal was applauded by many who remember the bloody baiting circus and trial by newspaper publicty conducted by the old HUAC.

The House, which had just approved 'preventive detention' and 'no-knock' laws, debated only briefly before holding Mr. Johnson in contempt. The case now goes to Atty Gne. who must decide whether to convene a Grand Jury which would in turn decide whether the case should be brought to trial. Since the Atty Gen. has a choice, he certainly should hear public opinions on this matter.

Gone Right To Work

CCCL wishes to express its appreciation for the thoughtfulness of Regina, who in life supported our work, and in passing has made possible important new efforts.

We hope that others will take a moment to put CCCL into their wills, knowing that their bequest will go right to work for democracy.

LIBERTY issued by:
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Liberty Notes

LIKE AN UNFINISHED SYMPHONY, the unfinished business of democracy in our country taunts generation after generation. The powerful themes in the Bill of Rights give passionate promise to end the callous and devastating practices of propertied power-mongers. People in motion have used speech, press and association to void the property rights of slavery, company towns, child labor and graft-ridden politics. During economic depression, they established the right to some measure of social security. Heroic accomplishments, but so incomplete...and the Giants have grown in callous diregard.

Today there is a new out-reach for the democracy we sung about, we promised. Its strength and determination can be judged by Establishment reaction...the boom-boom of the Nixon war drums, the hysteria of the Mitchell 'law-and-order' bills and the lava-flow of the Agnew word-missles. The post World War II generation fell victim to such pseudo-patriotic taunts and lies. Each one did their own quiet (rationalized) thing. **Perhaps this last thought is key. When discouragments, disillusionments and rumbling repressions turn so many good people inward, to "do their own thing", the tools for democracy lie unguarded and are easily stolen. Only social awareness and unity of actions can protect and secure individual rights...individual fulfillment...and perhaps, the final movement for democracy.**

"URGE IMMEDIATE ACTION" was the summer watchword of CCCL in memos, letters, wires, phone calls to Congress and country-wide readers...trying to stir up enough fires and Congressional consciences to stop the DC Crime Bill. Some were duds...some alerted new forces, particularly against 'preventive detention'...some national church, women's, anti-draft, peace, Black and Jewish organizations. Rev. Lee H. Ball, Exec. Secy of MFSA, reported the anti-preventive detention resolution passed in the 171st session of the NY Conf. of United Methodist Church. The Mass. New Politics Coalition issued a thorough analysis of the DC crime and other repressive Bills. The Amer. Assoc. to Combat Facism, Racism & Anti-Semitism has issued an excellent Fact Memo on Law-and Order repressive measures. Reps of ACLU, WISP, Amer. Friends Society, Nat'l Council of Church and others talked to the Senators in Washington. There were many letters from home, urged rejection of the DC Crime Bill. 33 Senators responded...more were moved to explain their vote and the publicity given to the fight makes it possible to stop preventive detention from going into other federal or state laws.

LIBERTY READERS WRITE: A.D. sends an Arizona Daily Wildcat reprint "Repression of Dissent" by Dr. J. E. McDonald—"Is this equating of dissent with subversion, this threatening dissenters with 'separation', a development we dare permit go unchallenged? Or doesn't an older and less hobnailed brand of Americanis call for even more outspoken dissent in the face of such shockingly unAmerican threats." Walter and Eliz. Rogers Newsletter (New Orleans, LA) says: "All our past grab-wars have met resistance...(Mexico, Cuba, Puerto Rico, Phillipines)...when the facts became known, good people braved insults, ridicule, jail and death to protest...true patriots." Raymond Frazier (L'A', Cal) in an OPEN LETTER to the President...referring to an OREGONIAN column (4-3-70) which says "White House ordering hush-hush security studies...what would happen if there is no Presidential election.""writes: "Kindly advise if you had anything to do with directing the study of the effect od dropping the election in 1972?" Paul B. (Ore.) writes: "...in addition to such fascistic laws as the McCarran Act, we are getting a mass of little local oppressive statues that are eroding away...our cherished constitutional rights..."

NIXON-MITCHELL-AGNEW ATTACKS have stimulated a new round of campus requests for material. H.N.F. (Wyo): "It has come to my attention through the oral report of one of my students...a bill, currently in Congress would permit concentration camp type of incarceration without benefit of trial...I would appreciate any information." Prof. G. (Neb.) after receiving requesting literature and suggestion for course in Freedom of Speech, writes: "...your assistance has been most helpful and students will be drawing on it in the coming semester." B.B. (U. of Minn.) distributed 250 LIBERTYs, writes: "the response has been one of DEEP CONCERN in the student community...the Nixon-Agnew mismanagement of the US economy is turning many people to the left...if a man, a woman defends the Bill of Rights...that person consciously or unconsciously is an American left. I like your committee which fights for my right...please send more copies of LIBERTY." Comm Education for Action (Radcliff, Mass) "We have gotten your name from the Directory of Social Change... (we are) a student-run social action program." M.P. (U of Mich) I am doing a research project on the McCarran Act." M.L. 'Wesly Theo. Sem.—DC) "We are trying to compile a list of good organizations in order to gain more support for them..." More requests for material freom students, teachers, and libraries....

CONCENTRATION CAMPS-USA by Charles Allen is used by many writers on repression in the US...including Morris Kominsky whose COUNTDOWN, USA ($10) will be ready shortly (400 Frankling Ave-Elsinore, Cal.) Our newspaper LIBERTY is listed in the 2nd Edition of Muller & Spahn's FROM RADICAL TO EXTREME RIGHT, Campus Publ. (Mich). Renewed orders for CC-USA have come from Draft Counseling Groups, Cal. WISP, Conn CNVA, several Amer. Friends Districts, bookshops and individuals in many states. CCCL work is only as good as the many voices, arms, legs, resolutions and actions that get out the information and act in concert to stop repressive measures; much was made possible by the thoughtful who raised funds and sent summer contributions. In this spirit I share part of a Whitman poem sent by C.A.R. (La Guna, Cal.)

We hear the bawling and the din—we are reached at by
divisions, jealousies, recriminations on every side,
They close peremptorily upon us, to surround us,
my comrade,
Yet we walk upheld, free, the whole earth over journeying
up and down, till we make our infeffaceable mark upon
time and diverse eras,
Till we saturate time and eras, that the men and women of
races, ages to come, may prove brethern and lovers, as we are.

Best, Miriam Friedlander