

United State of America
ANTI-COMMUNISM & ANTI-TERRORISM
Civil Liberties v. National Security

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INTRODUCTION

THE POLICIES AND STRATEGIES DEALING WITH NATIONAL security that have emanated from the terrorist attacks on the USA on September 11, 2001 have generated a debate over the extent to which civil liberties are affected. "Nine-Eleven" has been compared to the attacks on Pearl Harbor and its consequences for Japanese Americans who were interned and temporarily lost their rights as American citizens. Arab Americans and some Muslim Americans claim that they have lost the right to due process and that their violations of immigration and other laws are being used as a pretext to detain them on suspicion that they are a threat to national security. The Secretary of Defense compared America's war on terrorism to the Cold War.

Laura Murphy, Director of America Civil Liberties Union (ACLU) Washington National Office claims that when President Bush signed the USA Patriot Act, it gave broad powers to monitor and detain those suspected of any wrongdoing that would threaten national security. The law removes the power of the Federal Courts to limit wire-tapping by the FBI or CIA. It makes the role of the Federal Court virtually meaningless. There are very few provisions for recourse in the courts. It also goes beyond fighting terrorism. It makes fundamental changes in criminal procedure. Murphy, points out that "the police can now enter anyone's home, download information off your computer, go through your personal possessions and you'll never know that they were there." She compares the new law to Cointelpro, and FBI counter-intelligence program that disrupted Black Power and Civil Rights organizations in the 1960s and 1970s. Her fear is that the FBI will be forced back into the political intelligence-gathering business on behalf of the CIA. "Instead of the FBI investigating you because it thinks you are about to commit a crime, have committed a crime or are in the process of committing a crime, it will be investigating you on grounds based on national security. And who decides what's a threat to national security?"

The concern of people in the civil liberties community is that the USA Patriot Act will be abused. An example often cited is the manner in which government authority has been abused when used against African Americans. African Americans have been victims of government mistakes. The other concern is that many anti-civil liberty practices which civil society worked very hard to outlaw will return with the new anti-terrorist legislation. To better understand this, it is important to know about the background to the emergence of the federal political intelligence system and the loss of civil liberties by many during the Cold War.

ANTECEDENTS TO THE WAR ON COMMUNISM

Communism was identified since the end of WWI as a threat to the American capitalist system, white supremacy, the liberal-democratic system and religious freedom. Since then, a political intelligence system of the federal government and a civil society network developed separately, but were informally linked in their

fears and mission. During the Cold War, there was collaboration between the anti-communist network and departments of the federal government. The federal political intelligence system and the anti-communist network in civil society developed a paranoia based on a "red scare" and/or "black scare."

At first, a system was established to keep surveillance on Germans. As the war ended, it refocused on communists, socialists, Bolsheviks, anarchists, Irish and Indian nationalists and a variety of African American militants. The Post Office Department (POD), State Department, Justice Department, Army, Navy and Bureau of Investigation (FBI in 1935) developed a federal political intelligence system between 1919-1921. There was also cooperation with the British intelligence system. Their operations included surveillance, investigation and spying on individuals because of fear or dislike of their beliefs, harassment and intimidation.¹

The Trade Union Movement was suspect in America since the 1870s, as the home of anarchists, socialists and communists. Within the Trade Union Movement itself, there was an inability to deal with the race issue specifically, in relation to African Americans. Segregation was prevalent within predominantly Caucasian unions. However, the Industrial Workers of the world known as Wobblies, founded in 1905, set as its goal, the organization of all workers regardless of race or nationality. It was opposed to corporate capitalism, the political party system, white supremacy and WWI. It defined itself as an international proletarian movement.²

At the time, African Americans were largely working-class and victims of intense racial discrimination. As such, they found the position of the Wobblies on the race issue very progressive and some joined the union. Therefore, it was no surprise that in 1918, when 101 Wobbly leaders were convicted on violations of the Selective Service and Espionage Acts, among the defendants was Ben Fletcher, an African American longshoreman. Attorney General, A. Mitchell Palmer, in 1919, in a report to the Senate informed that radical organizations had developed a plan to indoctrinate African Americans with subversive ideologies. He claimed that the communists were succeeding in recruiting African Americans. Consequently, he concluded that the American "Negro is seeing Red."³

It was in that context that African Americans, whether they were linked to communists, or socialist organizations, trade unions, NAACP or African American newspapers, who spoke out against lynching or for civil rights were labeled communists. It was clear that the objectives of the federal political intelligence system were two-fold. One, defend the capitalist system, and two, defend the racial status quo of white supremacy. The few African Americans who were associated with communists and were trained in Moscow by the Communist International were used to paint moderate, independent and patriotic African Americans with the brush of communism. In reality, the Pan Africanist/ Black Nationalist, UNIA, led by Marcus Garvey was the only organization that successfully enlisted African Americans in large numbers. Garveyism was pro-capitalist but against racism.

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The attempts by communists, under the influence of the USSR's communist international (COMINTERN), to establish organizations and fronts that could enlist and mobilize African Americans in significant numbers failed. Organizations of the African Blood Brothers (ABB), American Negro Labor Congress, National Negro Congress and others had very brief life spans. The famous and eloquent A. Phillip Randolph failed as a socialist leader, and only enjoyed success, though not comparable to Garvey in terms of numbers, when he led an African American union, Brotherhood of Sleeping Car Porters (BSCP) and March on Washington Movement (MOWM).⁴ The NAACP, National Urban League, Lodges, and African American Churches, successful in varying degrees, were moderate, reformist and non-communist. Nevertheless, the leaders in federal political intelligence agencies made sure that opposition to white supremacy "became the security agenda of powerful arms of the National Government."⁵ They were convinced that progressive positions and activities, upheld and carried out by African Americans, particularly, the demands for civil rights were "communist inspired and a threat to both national security and white hegemony."⁶

The POD played a key role in developing the federal government's political intelligence system between WWI and WWII. During WWI, a new generation of African Americans, the "New Crowd Negro, challenged the racial status quo by speaking out vociferously against lynching, championed civil rights and organized in various forms. One of their major activities was the development of dynamic and aggressive African American publications. Among the numerous and important publications were Randolph's MESSENGER, DuBois's NAACP CRISIS, Garvey's UNIA NEGRO WORLD, and Abbott's Chicago Defender. These newspapers and magazines were very influential voices in African American communities.

The POD, within the federal political intelligence system shouldered the responsibility for censorship and registration of aliens. It reviewed and censored the press, mails, cables and telegraphs. President Wilson, who was institutionalizing racism in the Federal Government, did at one point advise the Postmaster General, Albert Sidney Burleson to act with caution in putting restrictions on the printed matter.

Burleson ignored him and worked closely with the then Attorney General on the issues of communism and African Americans' anti-racist activities. He withdrew second-class mailing permits from those publications considered subversive. After the war, the Translation Bureau of the POD meticulously reviewed the publications of the "New Crowd Negro." Burleson used the Trading-with-the Enemy Act, even after the war under the pretext that the USA was not a signatory to the Versailles Treaty. He explained his position:

"The character of disloyal and seditious matter found in the mail since the signing of the armistice has differed materially from that which the Department dealt with during the prosecution of the war. It is now of a radical, revolutionary type, having for its object the solidification of the revolutionary elements in this country and the overturning of our present form of government by force..."⁷

Burleson tried to prosecute the white leftist "Liberator" and the African American "Messenger" but failed for lack of evidence. Subsequently, they were punished by the denial of second-class mail. It was alleged that Burleson and the Attorney General enjoyed sharing "darkey" jokes.⁸ Burleson's action showed a deep and sustained commitment by the POD to persecute African America activists and communists, not only during WWI, but also beyond.

J. Edgar Hoover, who later became head of the FBI, emerged as the most powerful leader of the federal political intelligence system. Even though official spying and surveillance of U.S. citizens was supposed to have ceased by 1924, Hoover continued surveillance of certain citizens and organizations. On Hoover's instructions, the Bureau developed a category in its intelligence gathering system called "Negro Activities." President Roosevelt, in 1936, gave the FBI authority to investigate Fascists, Nazis, communists and all subversives. At the beginning of WWII, the President authorized the FBI to focus on the Communist Party. Hoover refused to employ African Americans as agents and continued to spy on African Americans during WWII.

The Red Scare had taken roots not only at that level of the government, but also in civil society. The American Legion, an organization of veterans, which was founded in 1919, adopted a very strong anti-communist posture. It played an important role during three decades of the twentieth century in forging the emergence of an informal anti-communist network. It

included conservative members of the American Federation of Labor (AFL). The American Legion and conservative politicians alleged that Roosevelt's New Deal was infiltrated by communists and were using Federal Agencies to advance the USSR's objectives. The Legion called on Congress to hold hearings on allegations made by individuals and groups in civil society. There were few hearings, but they did not generate national hysteria.

At the end of the 1930s, a new alliance against the New Deal was forged between Southern Democrats and Republicans. It led to the establishment of the House Un-American Committee (HUAC) in Congress. The first HUAC Chair was Martin Dies, a xenophobic Texan Democrat. The Committee hearings focused on labor unions and New Deal Agencies. Ex-communists, American Legion officials, representatives of other right-wing organizations and the Committee of Industrial Unions (CIO) labor opponents gave testimonies. The HUAC pursued allegations that communists had infiltrated the government. Illegal red squads raided local Communist Party offices in Philadelphia and Washington, D.C. and obtained membership lists that were used to embarrass the Roosevelt Administration. The lists had names of federal employees.⁹ Congress passed legislation targeting communists in 1939. The Hatch Act barred communists and Nazis from government employment. In 1940, hoping the U.S. Communist Party would sever its ties to Moscow Congress passed the Voorhis Act, which required groups with foreign affiliations to register with the government. In 1940, Congress also passed the Smith Act that made it illegal to teach or advocate the overthrow of government or to join any organization that did.

THE WAR AGAINST COMMUNISM

At the end of 1945, the united front between communists, anti-communists and non-communists collapsed. The anti-Nazi/Fascist Alliance led by USA, Britain and the then USSR was replaced by the Cold War. The perception in America, Britain and other nation-states in the western world was that the USSR aspired to establish a global communist system with its Communist Party and government as the major player. It was alleged that its strategy and action plan was being implemented through COMIFORM: a network of official communist parties organized in

almost all nation-states around the world, under a central command in Moscow. It was a blueprint for a new world order based on political dictatorships and atheism. The USA emerged as the leader of the liberal, democratic, western world and was opposed to the spread of communist dictatorships. Alternatively, it promoted capitalism, freedom of religion and anti-communism as an alternative.

Britain played its part. Winston Churchill visited the USA and accompanied by President Truman, delivered a speech in Fulton, Missouri, in which he conceptualized the Cold War as a Soviet "iron curtain" that divided the east from the west, the free and the enslaved. The differences between the USSR and the USA deepened when the U.S. government launched the Marshall Plan for the reconstruction of Europe. The USSR and its allies around the world perceived the plan as anti-USSR.

Subsequently, President Truman and the Congress of the USA declared an "internal war" on all who were identified as communists, their acquaintances and friends. The federal government became a major battleground, when in 1947 President Truman issued an Executive Order, to "purge" the federal government of communists. It was a time of anti-communist hysteria when Republican and Democratic Senators and Congressmen used Congressional Committees to intensify the "witch-hunt." Many citizens who were associated with organizations or individuals sympathetic to the struggle for workers, civil and human rights were caught in the dragnet. Many trade unionists, liberals and reformers were treated as communists. Even though the Truman and Eisenhower Executive Orders provided the framework for the investigation of public servants, Senator Joe McCarthy stole the limelight as the most vicious and known anti-communist in America. His reputation was universal. The era of the anti-communist hysteria is synonymous with his name and is referred to as McCarthyism.

On March 12, 1947, President Truman addressed a Special Session of Congress and sought aid for Greece and Turkey, in his bid to ensure that the USA support "free peoples who are resisting attempted subjugation by armed minorities or by outside pressures."¹⁰ At the domestic front, on March 22, 1947, he issued Executive Order No. 9835, in which the procedures for the administration of an Employee Loyalty Program (ELP) in the federal gov-

ernment was outlined.

It stipulated that the government should conduct a loyalty investigation of every person entering any Department or Agency of the Executive Branch. It authorized investigations of those already employed. All personnel, who were found to be "disloyal," were to be dismissed by the Head of their Agency or Department. Loyalty Boards were established throughout the federal government. In practice, it was a witch-hunt, as increasingly, the Federal Bureau of Investigation (FBI) supplied information on employees. That agency prepared secret files that were compiled from unknown informants. The major concern was to verify if any Federal employee was a member of the Communist Party (CP) or had association with any acquaintances who might have been a party member. Investigations confirmed that some were either communists or associates of communists.

Employees were denied due process and could not contest or disprove accusations of direct or indirect connections with the Communist Party of America (CP). Informants' identities were kept secret. During the period, when an employee was being investigated, he or she was suspended from work. But, it was not only the CP that was on the blacklist as a subversive organization, but also a number of other organizations which the Attorney General arbitrarily compiled without giving organizations an opportunity to contest their inclusion on the list.

As the investigation of public servants intensified and the "purge" got into full swing, President Truman in April 1950 issued another Executive Order which was even more stringent as it specified that employees should be dismissed if an investigation led to the conclusion that "there is reasonable doubt as to loyalty." The first Order stated, "On all evidence, reasonable grounds exist for belief that the person involved is disloyal. This meant that an employee was considered guilty unless he or she could prove his or her innocence, but of course, was not allowed a proper trial. The new Executive Order led to the reopening of 565 cases that were already resolved in favor of employees.

Subsequent to President Truman's Order, the Postmaster General (PMG), on September 9, 1947 published, in the Postal Bulletin, the provisions of the Order, that were pertinent to postal employees. Part I dealt with the investigation of applicants. It stipulated that all new applicants would be subjected to a loyalty investigation conducted by the Civil Service Commission (CSC), except in cases where there were special agreements by departments or agencies. If after 18 months, no investigation was carried out then new employees' employment was no longer a subject of investigation. However, that rule did not apply to those employees who had appealed a Civil Service Commission (CSC) initial adjudication of disloyalty. Such cases had to be concluded expeditiously by the employing department. If derogatory information with respect to loyalty was revealed then a full field investigation had to be conducted "in the best interest if national security."

Part IV of the Order was entitled, "Security Measures in Investigation." The investigative agency had to supply all information on request by department heads about employees. However, "the investigative agency may refuse to disclose the names of confidential informants..." Each department had special staff trained in security techniques.

Part V defined standards. The "standard for the refusal of employment or the removal from employment in an Executive Department or agency on grounds relating to loyalty shall be that,

on all the evidence, reasonable grounds exist for belief that the person involved is disloyal to the Government of the United States." A list of activities and association of an applicant or employee which were considered in connection with the determination of disloyalty included the following:

"Sabotage, espionage, or attempts or preparations therefore, or knowingly associating with spies or saboteurs. Treason or sedition or advocacy thereof; associating with spies or saboteurs. Advocacy of revolution or force or violence to alter the constitutional form of Government of the United States. Intentional, unauthorized disclosure to any person, under circumstances which may indicate disloyalty to the United States, or documents or information of a confidential or nonpublic character obtained by the person making disclosure as a result of employment by the Government of the United States. Performing or attempting to perform his duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States. Membership in, affiliation with, or sympathetic association with any foreign or domestic organization, association, movement, group or combination of persons, designated by the Attorney General as totalitarian, fascist, communist, or subversive, or as having adopted a policy of advocating or approving the Commission of acts of force or violence to deny other persons their right under the Constitution of the United States, or as seeking to alter the form of Government of the United States by unconstitutional means..."¹²

Part VI was named miscellaneous and outlined relations with the FBI. Each department and agency of the Executive Branch had to submit to the FBI all information requested on employees. The FBI then checked the names against its information and subsequently notified the agency or department of its findings. Based on that information, investigations were to be initiated. It was also stipulated that the Security Advisory Board of the State-War-Navy Coordinating Committee "shall draft the rules applicable to the handling and transmission of confidential documents and other

documents and information, which should not be publicly disclosed. Upon approval by the President, such rules shall constitute the minimum standards for the handling and transmission of such documents and information..."¹³

Other instructions were that all employees as of September 30, 1947 who had 90 days service had to submit, by March 31, 1948, a completed Standard Form 86, Fingerprint Chart, and a complete Standard Form 84, Request for Loyalty Data. Finally, it was stipulated that procedural instructions for the carrying out of the provisions of the Order were to be issued by the Chief Inspector and the First, Second and Fourth Assistant Postmasters General to their field officials who had to take immediate action.¹⁴

END OF PART I

¹ Kornweibel Jr., Theodore: *Seeing Red: Federal Campaigns Against Black Military 1919-1925*, Indiana University Press, 1998/page 1.

² *ibid*, page XI & 155.

³ *ibid*: XIV.

⁴ Tennessee, Paul Nehru: *The House of Labor & Black Nationalism: A Literature Review*, National Alliance, March/May/June 2001 (Three parts).

⁵ Kornweibel Jr., Theodore: *Seeing Red: Federal Campaigns Against Black Military 1919-1925*, Indiana University Press, 1998/ page 181.

⁶ *ibid*, page 182.

⁷ *ibid*, page 14.

⁸ *ibid*, page 18.

⁹ Schrecker, Ellen: *The Age of McCarthyism: A Brief History With Documents*, Boston: St. Martin Press, 1994/ page 3.

¹⁰ Schrecker, Ellen: page 3.

¹¹ Glenn Sr., Al: *History of The National Alliance of Postal Employees 1913-1955*, Published December 20, 1956 at Cleveland Ohio, At A Printery.

¹² Postal Alliance, September 1947.

¹³ Postal Alliance, September 1947.

¹⁴ Postal Alliance, September 1947.