Battling Terrorism With Tyranny

> ***1968:*** *Exploiting the assassinations of Martin Luther King and Senator Robert Kennedy, a media-led campaign provided irresistible pressure on Congress to pass President Lyndon Johnson's "Omnibus Crime Control and Safe Streets Act." Among other things, the massive bill banned the mail-order sale of handguns and established the Law Enforcement Assistance Administration (LEAA), which began nationalizing law enforcement with federal grants to state and local governments.*
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> ***1989:*** *Paroled felon Patrick Purdy gunned down five children in a Stockton, California schoolyard, furnishing all the grist needed for the media to orchestrate a continuous clamor for a ban on "assault weapons." A state ban was enacted in California and in 1993 a federal ban on designated "assault weapons" was passed.*
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> ***1994:*** *Following a year-long media blitz heralding a national "crisis" of crime and violence, Congress was stampeded into passing the Omnibus Crime Bill effectively federalizing a multitude of crimes and law enforcement activities previously reserved to the jurisdiction of the states.*

Unfortunately, these are only a few examples of political "opportunity" and preparation converging to effect immense accretions of federal power and a further erosion of the checks and balances that are essential to limited constitutional government. Wars, crises, tragedies, and infamous criminal acts have ever been useful handmaids to ambitious and amoral politicians. It was this age-old phenomenon of usurpation-through-crises that James Madison was referring to when he warned in 1795 against those who would use "the old trick of turning every contingency into a resource for accumulating force in the government."

Two hundred years later that "old trick" is being played with a vengeance for a massive accumulation of force in the federal government. The contingency at hand, of course, is the fearful prospect of future terrorist acts like the murderous April 19th attack on Oklahoma City. On May 3rd President Clinton sent to Congress, for its "immediate consideration and enactment," the Anti-terrorism Amendments Act of 1995. "This comprehensive act, together with the Omnibus Counterterrorism Act of 1995," said the President, "are critically important components of my Administration's effort to combat domestic and international terrorism."

Constitutional Concern

The President declared that the bill would "provide an effective and comprehensive response to the threat of terrorism, while also protecting our precious civil liberties." To those "civil libertarians" not totally convinced by the President's pledge, White House deputy chief of staff Harold Ickes offered additional assurance: "This President is well familiar with the Constitution. He has taught constitutional law and he is very concerned that whatever is submitted conform to the Constitution." Senate Majority Leader Bob Dole, House Speaker Newt Gingrich, and other members of Congress assure us that they too are determined to balance our security needs with constitutional protections against an intrusive and tyrannical Big Brother. But after meeting with the President, both Dole and Gingrich expressed a desire for bipartisan "cooperation" on the bill and a hope that it would be quickly enacted before Congress adjourns for Memorial Day.

Constitutional alarm bells should be ringing wildly. All the repeated assurances notwithstanding, the 111-page Omnibus Counterterrorism Act (S. 390 in the Senate and H.R. 896 in the House) and the 18-

page Anti-terrorism Amendments Act offer plenty of reasons for concern. For starters, they would:

• Federalize a host of crimes now properly restricted to state jurisdiction.

• Strike a dangerous breach in our posse comitatus law which prohibits the use of the military in law enforcement.

• Grant vast discretionary power to the President to apply the "terrorist" label to organizations and, thereby, subject the members and associates of those groups to federal prosecution.

• Broaden the "interstate commerce" clause to establish federal authority over virtually everybody and everything that moves.

• Permit law enforcement agencies much greater access to private financial and credit reports.

• Allow much wider use of wiretaps.

How We Got Here

Before spending any more time critiquing the proposed federal "solutions" arid prescribing some of our own, we would do well to review how it is that we arrived at our current deplorable state of vulnerability. Without thoughtful regard to the policies and actions of the past that are responsible for our current predicament we risk making matters even worse with misguided and dangerous legislation.

A realistic approach to dealing with the threat of terrorism must begin with the acknowledgment that it is impossible to guard against every conceivable terrorist act by every deranged group with an ideological, ethnic, sectarian, or irredentist axe to grind. Erecting a garrison state complete with metal detectors and bomb barriers for every public building, armed troops in our streets, and a vast federal gestapo is neither a feasible nor a desirable response.

On the other hand, the position espoused by leading opponents of stepped-up internal security — that present law enforcement and intelligence tools and resources are perfectly adequate and that all proposals to combat terrorism are veiled threats against "civil liberties" — is equally untenable.

It seems that we are hopelessly caught between the Scylla of the police state and the Charybdis of complete vulnerability and anarchy. Is there no safe and reasonable path between these extremes? Of course there is, but a great deal of effort is being made to obscure that path.

What far too few Americans appreciate is that until fairly recently we were the beneficiaries of multiple layers of efficient law enforcement and internal security mechanisms that not only provided our society with reasonable protection against terrorism, espionage, subversion, and revolution by foreign and domestic enemies, but against oppression by an all-powerful central government as well. Much of that multi-layered protection is now gone, destroyed or greatly weakened by a vast and insidious long-range, multi-pronged campaign. The story of that subversive crusade is a fascinating and tragic saga the understanding of which is crucial to any hope of solving our current terrorism dilemma.

Launched by the Communist Party and its allies in the 1920s, this perfidious campaign grew steadily in the 1930s, '40s, and '50s, and escalated to a fever pitch in the 1960s and '70s. Targeted for destruction or neutralization were all of our nation's front-line law enforcement and intelligence-gathering agencies and institutions: the Immigration and Naturalization Service, the Federal Bureau of Investigation, the Central Intelligence Agency, congressional investigative committees, and the domestic intelligence divisions of the military services and municipal police departments.

In 1920, the official journal of the Communist Labor Party of America, *Communist Labor*, stated: "The

National Executive Committee of the Communist Labor Party advises all its members, whatever nationality, to oppose deportation with all means at their command.... It is the duty of everyone to get out on bail as quickly as he can and then to remain as long as he can in the ranks of the Communist Labor Party as an active worker to hasten the triumph of Communism in the United States."

At the time those instructions were given, the Communist Party in the U.S. was heavily dependent upon Moscow's foreign agents for leadership at all levels. it would remain so for many decades. Lenin — and Stalin after him — kept a steady stream of revolutionaries flowing into America, usually with false names and forged papers. Many of these were discovered, arrested, and deported.

In 1922, the Communist International (Comintern) formed the International Red Aid, a worldwide apparatus with tentacles in over 50 countries, for the purpose of protecting its agents from deportation and battering down national immigration controls. The American section of the apparatus was known as the International Labor Defense, and, later, as the American Committee for the Protection of the Foreign Born (ACPFB). By June 25, 1942, after hearing numerous witnesses — including those like Humberto Galleani who had been members or officials of both the Communist Party and the ACPFB — the House Committee on Un-American Activities (HCUA) reported that there "was no doubt about the party's complete control" of the ACPFB.

The ACPFB was joined in its efforts to thwart and undermine our immigration laws by the communist front National Lawyers Guild (NLG) and the communist-founded American Civil Liberties Union (ACLU). This unrelenting attack on our borders, our national sovereignty, and our national security by these radical attorneys continues to this day, and has been exposed in all its lurid details by William R. Hawkins in his recent book, *Importing Revolution: Open Borders and the Radical Agenda*.

With the help of their allies in the Establishment media cartel, this same cadre of revolutionary lawyers succeeded in not only hamstringing the INS and the Border Patrol, but in neutering or abolishing the House and Senate internal security subcommittees, the Attorney General's Subversives List, the Subversive Activities Control Board, the counterintelligence units of the Armed Forces, the investigative committees of most state legislatures, and the intelligence units of most state and municipal police organizations.

Sharing "credit" with the ACLU and NLG for these "accomplishments" is a national network of anti-police and anti-security groups affiliated with the Institute for Policy Studies (IPS), a Marxist think tank tied to the Cuban DGI, the Soviet KGB, and numerous terrorist groups. Foremost among these is the IPS-created Center for National Security Studies (CNSS).

Shocked to Reality

In the aftermath of the Oklahoma City bombing, the questions have arisen again and again: Why didn't the FBI have any clue ahead of time about this plot? Could it have been prevented? Shouldn't some of these "right-wing militias" being accused of complicity in this crime have been investigated and infiltrated?

In answer to these and related questions it should be noted that indeed there is a far greater likelihood that this plot would have been uncovered ahead of time and the terrible loss of life avoided had the FBI and the other layers of intelligence and law enforcement listed above not been severely damaged and restricted by the subversive campaign of the last few decades. Although there is no evidence publicly available at this point that any of the suspects in the Oklahoma case are, or were, involved with various militia groups, under the "Levi Guidelines" governing FBI activities there is little likelihood that the FBI

would have been able to investigate any of these organizations in any case.

Those guidelines instituted 20 years ago by former Attorney General Edward Levi (who had been a member of the National Lawyers Guild) represent an immense victory for the communists and all forces of revolution, anarchy, and lawlessness. Under the Levi restrictions, the FBI is not even allowed to keep files of public source documents, such as newspaper clippings, on violent or avowedly subversive groups unless there is evidence that they are committing, or are imminently about to commit, a federal crime. "Those guidelines," said former FBI Acting Associate Director W. Mark Felt in a 1983 interview with this magazine's predecessor, *The Review of the News*, "for all practical purposes put the FBI out of the Domestic Security business."

Recalls Felt: "When I retired from the FBI in June of 1973, my recollection is that there were over 20,000 Domestic Security cases under investigation. In May of 1982, there were 20 Domestic Security cases being investigated. It is accurate to say that under the current Levi Guidelines the FBI cannot now investigate until after the bomb goes off."

A Vicious Attack

Edward Levi, however, went far beyond establishing these guidelines and launched a vicious campaign against the FBI, indicting Acting Director of the Bureau L. Patrick Gray, former Chief of Counterintelligence Edward Miller, and W. Mark Felt on charges of "conspiring to injure and oppress citizens of the United States." Who were these injured and oppressed "citizens"? They were members, supporters, and associates of the Weather Underground Organization (WUO), an avowedly violent communist organization controlled and directed by the Cuban DGI and Soviet KGB. This terrorist network had been deeply involved in bombings, robbery, and murder. Citing genuine national security concerns, Mark Felt had authorized 13 surreptitious entries of suspected Weatherman hideouts during 1972-73.

After a bitter court battle during which the trial judge retroactively applied the 1976 guidelines to the defendants, Felt was sentenced to pay a fine of $5,000 and Miller to pay $3,000. Legal expenses in the Felt/Miller case, however, exceeded one million dollars. But that was not all. One hundred and forty FBI agents were prosecuted for their lawful efforts to apprehend the WUO terrorists. Understandably, this had a chilling effect on the FBI's counterintelligence operations.

In testimony before the Senate Subcommittee on Security and Terrorism in 1982, FBI Director William Webster said, "My problem today is not unleashing the FBI. My problem is convincing those in the FBI that they can work up to the level of our authority. Too many people have been sued. Too many people have been harassed and their families and life savings tied up in litigation and the threat of prosecution, so that we, and others like us, run the risk that we will not do our full duty in order to protect ourselves."

Many current and retired FBI agents have confirmed that the problem expressed by Webster more than a decade ago is still with us today. That same problem exists in many local police departments which have been subjected to similar harassing lawsuits by the ACLU-NLG-IPS-CNSS cabal.

Bearing a major burden of responsibility for this situation are those members of Congress and their staffs who not only have been adamant foes of internal security, but who have been active supporters of the IPS and its anti-American agenda: Senators Chris Dodd, Mark Hatfield, Edward Kennedy, Joseph Biden, Representatives Ronald Dellums, Don Edwards, George Brown, Patricia Schroeder, George Miller, John Conyers, and dozens more of their colleagues from the Hill.

Frightening Potential

An understanding of the foregoing is essential to making intelligent decisions about what must be done. Are we going to accept wrong-headed and dangerous solutions from the very people who put us into our present precarious predicament? The Clinton Administration and the congressional offices are filled with people who have led the assault on our internal security for the last three decades. Clinton National Security Adviser Anthony Lake, for example, was an active aparatchik at the IPS, the CNSS, and the Center for International Policy. Heading the Center for National Security Studies' attack on the police and intelligence communities at the time was Lake's comrade, Morton Halperin, who now holds a senior staff post on Clinton's National Security Council.

The President's proposed legislation has frightening potential. Section 101 of the Omnibus Counterterrorism bill, for instance, offers a dangerous breach in the posse comitatus law which prohibits the use of military forces in law enforcement activities. The new law would permit the Attorney General, when investigating violations of section 101, to request assistance "from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding."

Americans exercising their rights guaranteed under the First Amendment to, for example, protest the visit of leaders from Russia, China, or Vietnam might find their legitimate actions an indictable offense under the law if, "in the judgment" of the Attorney General or her subordinates, "such offense, or any activity preparatory to its commission, transcended national boundaries and that the offense appears to have been intended to coerce, intimidate, or retaliate against a government or a civilian population, including any segment thereof." Since the visiting official transcended U.S. boundaries in coming to this country, it is not difficult to see how this legalism might be invoked to quell dissent.

Federal felony charges for "terrorism" may also be brought if "the offense obstructs, delays, or affects commerce in any way or degree or would have so obstructed, delayed, or affected commerce if the offense had been consummated," if "any victim, or intended victim, of the offense is, at the time of the offense, traveling in … commerce," or if "any victim, intended victim, or offender is not a national of the United States." Considering the multifarious ways in which federal officials have tortured the interstate commerce clause to advance every imaginable federal usurpation, the mind reels at the "opportunities" that could be advanced for even more oppressive abuses under such language.

Section 102 makes it "unlawful for any person within the United States … to directly or indirectly, raise, receive, or collect on behalf of, or furnish, give, transmit, transfer, or provide funds to or for an organization or person designated by the President" to be involved in terrorism. Consider the very real possibility that the Zulu-led Inkatha Freedom Party in South Africa might have to resort to armed force to protect itself from annihilation by Mandela's regime. It would assuredly be labeled "terrorist" by the UN and the Clinton Administration, and U.S. citizens would be prohibited from bringing Zulu Chief Buthelezi or any other Inkatha representative here, or providing even humanitarian aid to their cause. The same would apply to Cuban, Haitian, Taiwanese, Vietnamese, Croat, or Serb organizations.

Alarming Presidential Power

Even more alarming is the fact that this fund-raising prohibition applies to "any terrorist organization designated by proclamation by the President after he has found such organization to be detrimental to the interest of the United States." Since this clause appears in Section 202 concerning the removal of "alien terrorists," it might be argued that it could not be taken to give the President authority to label

as “terrorist” those domestic organizations he finds “detrimental” to U.S. interests. But when it comes to advancing his agenda, President Clinton has already shown himself willing to make even longer reaches than that.

Consider for example his use of the RICO statute to prosecute pro-life activists and others who couldn’t possibly be considered legitimate targets of the law under any reasonable interpretation. RICO, which was passed ostensibly to deal with organized crime, provides a frightening illustration of the means by which this new legislation could be harnessed for political purposes under the guise of combating terrorist groups. And since we’re on the subject of RICO abuse, we ought to take note of the fact that Section 603 of the bill would add a couple dozen new expansions to the RICO arsenal, the abusive potential of which is impossible to evaluate at this point.

Section 956 makes “Conspiracy to kill, kidnap, maim, or injure certain property in a foreign country” a terrorist offense — which may seem reasonable until one considers that family members and friends of POWs in Vietnam sitting around their kitchen table and planning a rescue or surreptitious investigation attempt in Indochina could also be covered by the definition. In view of the hostility which the federal government has shown to such POW families, that is not stretching the application in the least.

There are many more provisions of the Clinton package that would present cause for grave concern with even the best of Presidents in office. Considering the Clinton Administration’s undisguised lust for power, its revolutionary socialist zeal to “reinvent” American government, its implacable hostility toward the Second Amendment, and its shameless exploitation of the Oklahoma tragedy for political gain, this power grab is doubly alarming.

As the John Birch Society noted in a recent “Action Alert” to its members urging opposition to the bills, the proposed legislation is “a prescription for wholesale nationalization of criminal law and concentration of broad discretionary powers under the President using the facade of fighting international terrorism.” The John Birch Society, which for decades has been a leading advocate for restoring the House Internal Security Committee and local police intelligence, warned in its alert that “coming from a government which includes in its concept of ‘navigable waters’ dumping a load of clean fill into small puddles in the middle of a 600-acre private farm, the wording of the bills includes just about everything under the sun.”

Daniel Webster warned, “Good intentions will always be pleaded for every assumption of power…. It is hardly too strong to say that the Constitution was made to guard the people against the dangers of good intentions.” We will not vouch for the intentions, good or bad, behind this legislation, but the plea for power should definitely put all Americans on guard.

President Clinton, like his predecessors, has the authority to change the subversive Levi Guidelines, but has refused to do so. How genuinely good can his intentions be when he refuses to use the legitimate powers he does possess to deal with a threat to the nation in order to justify a grab for illegitimate powers that are not needed to deal with the threat. Such illegitimate powers are themselves an even greater threat to the security of the people than that which the President claims they will protect us against.