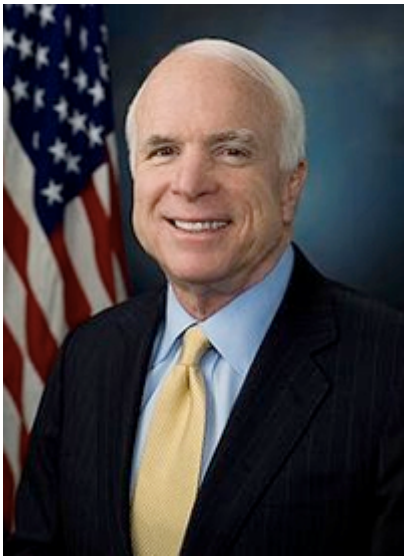
Written by **Steven Yates** on March 8, 2010

McCain-Lieberman Bill Would Deny Civilian Trials for "Enemy Belligerents"



On March 4 Senators John McCain (R-Ariz) and Joseph Lieberman (I-Conn.) introduced a bill entitled "The Enemy Belligerent Interrogation, Detention and Prosecution Act of 2010." If you thought some of the legislation introduced and passed by Congress under Bush II was scary, then in the immortal words of Bachmann and Turner you ain't seen nothin' yet.

The stated purpose of the bill is to ban civilian trials for those designated by the federal government as "enemy belligerents." The bill would bar such individuals from receiving the legal rights usually afforded those accused of crimes in the United States. "Enemy belligerents" would be taken into military custody for the purposes of interrogation and determination of their status. Some, after interrogation and determination of status, may become "high-level detainees."

Who could be designated "enemy belligerents" and thereby denied the right to a civilian trial? Would the designation be limited to combatants captured on a battlefield, or could it be extended to others — including, potentially, even law-abiding U.S. citizens who dissent from an official point of view or policy?

The bill's definition of "enemy belligerent" could be interpreted to mean a number of things. The bill tells us (Sec. 6, paragraph 9): "The term 'unprivileged enemy belligerent' means an individual … who (a) has engaged in hostilities against the United States or its coalition partners; (b) has purposely and materially supported hostilities against the United States or its coalition partners; *or* (c) was a part of al Qaeda at the time of capture." Note the *or* in that sentence (italics added). It is very important. That one word logically implies that an individual does not have to be a member of al-Qaeda to be swept up in this. Anyone who fits those other provisions, whatever they mean, could be detained under this Act. The level of potential for abuse here depends on how far it is possible to stretch the meanings of words and phrases such as *engaged in hostilities* or *purposefully and materially supported hostilities* against the United States.

A person may become a "high-value detainee" if he or she "meets the criteria for treatment as such established in the regulations required by subsection (d)." These regulations are:

• The "potential threat" the person poses for an attack on civilians or civilian facilities. Questions: What

is meant by a *potential* threat? How much *potential* is required? Does *potential* involve actions, or just speech within an assembly of dissenting voices which someone in government has interpreted as a threat?

• The "potential threat" the person poses to U.S. military personnel or facilities. The same questions apply.

• The "potential intelligence" value of the individual. See below.

• "Membership in al Qaeda or in a terrorist group affiliated with al Qaeda."

• "Such other matters as the President considers appropriate."

This last, of course, could mean anything any President wants it to mean, whether it is Obama or someone else sitting in the Oval Office in the future. This makes the meaning *high-value detainee* completely open-ended!

Moreover, according to this Act, individuals need only be "suspected" of commission of "hostilities against the United States or its coalition partners."

"Suspected"? Consider Jose Padilla, who was held for between three and a half and four years in solitary confinement in a military institution without explicit charges. He wasn't a saint, but he was a U.S. citizen whose rights under the Constitution became meaningless once President Bush declared him an "enemy combatant." His is just the most visible case. It isn't exactly as if the federal government lacks a precedent for trashing the Constitution and habeas corpus.

Finally, "The President shall submit the regulations and guidance required by this subsection to the appropriate committees of Congress not later than 60 days after the date of the enactment of this Act." In other words, this bill can become law prior to the actual "regulations and guidance" being worked out and put into place. Again, those dotting the i's and crossing the t's will have essentially free rein.

This bill provides the potential for a wholesale assault on any dissenting group's once-Constitutionally protected freedoms in America, should Obama or a future chief executive decide that this group's exercise of these freedoms does too much to challenge unbridled power. We should note that the problem is *not* that there is a specific plan in motion to deprive law-abiding U.S. citizens from exercising their rights to free speech, assembly, and so on; bills such as this one *open the door* for such plans to be put in motion.

It has been increasingly clear that the power elites are very, *very* worried about the Tea Party Movement (TPM) — and this doubtless includes worries that the insiders' attempt to hijack the movement for the neocons will be thwarted. They fear as much as they despise Ron Paul and his supporters; they worry about an upsurge of libertarian-type sentiment that opposes the use of taxpayer dollars to bail out bloated corporations that clearly could not survive in a truly free market.

Those in the TPM are not merely complaining that taxes are too high. They are concerned about out-of-control spending and debt and about the international banking cartel and the Federal Reserve monopoly power to create money out of thin air. They are educating themselves about our money system, where money comes from, and how the "banksters" (a term I see more and more) have been ripping off our civilization through their control of the money supply and interest rates. Last year, for the first the first time in almost 80 years last year, the Federal Reserve System came under severe scrutiny from within Rome on the Potomac itself — led, of course, by Ron Paul whose book *End the Fed* had become a *New York Times* bestseller!

The TPM collectively is furious about how the Federal Government bailed out the big Wall Street banks and surrounding corporations back in the fall of 2008 while Main Street businesses were closing, unemployment was soaring, foreclosures were reaching all-time highs, stock portfolios and 401Ks were being decimated, and evidence was mounting that the middle class in this country is being destroyed little by little.

Should tea partiers be concerned about The Enemy Belligerent Interrogation, Detention and Prosecution Act of 2010? It is interesting that the legislation (which as of this writing does not have a bill number yet) speaks of "enemy belligerents" instead of "enemy combatants." This suggests, at least to my ears, that critics of official policy don't have to be engaging in or threatening violence. All they have to be is "belligerent" in their demands to be heard. This bill's machinery makes the distinction between U.S. citizens and noncitizens irrelevant if one is a "suspect."

But tea partiers? Last year the Missouri Information and Analysis Center, a branch of the Missouri Highway Patrol, issued a report for law-enforcement officials warning against a terrorist threat that "subscribes to an anti-government and NWO [New World Order] mind set" and that views "the military, National Guard, and law enforcement as a force that will confiscate their firearms and place them in FEMA concentration camps." Public outrage forced the withdrawal of the report. But the very fact that the report was released in the first place shows that Americans who oppose government policies have reason to be concerned about whether they will some day be branded not just "extremist" but dangerous extremists who pose a threat to the very country they love.

Photo: John McCain