

**Legislation From the Past Speaks to Us Today:
The Mundt- Nixon Bill**

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*He who fights with monsters should be careful lest
he thereby become a monster. And if thou gaze long
into an abyss, the abyss will also gaze into thee.*

Friedrich Nietzsche

“There exist in the United States and elsewhere in the world terrorist groups. Many are part of international terrorist networks. These networks and groups engage in kidnappings, extortion, and other acts of violence” (Littman 1975:33-34). Surprisingly, that declaration was not made in the aftermath of the devastating terrorist attacks on the World Trade Center and the Pentagon. It was made half a century earlier by the Senate Internal Security Subcommittee. Such rhetorical declarations inspired fear among the populous, extracted attention from the media, and furthered the ambitions of politicians sitting on the committee. Representatives Karl Mundt of South Dakota and Richard Nixon of California engineered a House bill that extorted national paranoia for personal gain. Nixon was hailed by some of his colleagues, such as Representative Ben F. Jensen, as “one of the greatest patriots in all American history” (Congressional Record 1951:A4295-A8014). James Madison wrote in *Federalist Paper No. 41* that, “Security against foreign danger is one of the primitive objects of civil society” (Littman 1975:19). In light of Madison’s remark, Nixon and Mundt were merely indulging in their civic duty. But perhaps they should have listened to different echoes from the past, such as the apparently faint voice of Benjamin Franklin who wrote in 1759, “They that give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety” (Ignatief 2001:21). As we enter a new era of national insecurity, it becomes imperative that we listen to the past; that we do not ignore the wise voice of Franklin.

Of course it was not al Qaeda who sponsored and funded these alleged terrorist organizations in the 1950s, but Marxist-Leninists governments. On May 21, 1948, the U.S. House of Representatives overwhelmingly passed the Mundt-Nixon bill. It was the product of mass hysteria, an imaginative media, and unscrupulous politicians hoping to capitalize off public sentiment at the expense of others’ civil liberties. The Mundt-Nixon Bill, or the Subversive Activities Control Bill, embodies the essence of how the Cold War affected domestic public policy in the United States. But perhaps more importantly, it has come to symbolize policy making in the United States when under the duress of an internal threat and the resolve of a shaken public. In such circumstances, the line between civil liberties and security bends, fractures, and occasionally even disappears. A poll taken after the September 11 attacks reinforces this

idea – seventy percent of Americans are willing to give up some of their civil liberties in exchange for greater security (Morin 2002: A7).

Nixon learned from the Russian Revolution that a minority of dedicated revolutionaries could effectively usurp the government's authority. Nixon helped investigate a union that had been on strike for ten months against the Allis-Chalmers Manufacturing Company in Milwaukee. He examined how a small group of communists came to dominate an 8,700-member union "by clever parliamentary tactics, violence, intimidation, and dishonest ballot counting." In actuality, communists in leadership positions in various unions had more to do with their initial interest in creating them with the intention of improving working conditions and wages. Yet, "Nixon became convinced that small numbers of Communists were capable of controlling large unions," and perhaps capable of controlling larger organizations altogether (Gellman 1999:115). His solution was legislation to force Communists into the "sunlight" and destroy the subversive philosophy by selling democracy and the American way of life (Gellman 1999:115).

The bill symbolically declared, "That anyone who wanted to establish a totalitarian government in the United States under a foreign power was guilty of a crime" (Gellman 1999:115). Members of the Communist Party were required to register with the Attorney General. Federal employees could not participate in the Communist Party and could not "knowingly hire" any of its members. Furthermore, the U.S. government denied passports to its members in an effort to restrict their travel. There were no benefits for Communists to register with the government; their liberties would be revoked as a result of their political associations. Under the Mundt-Nixon Bill, Communists became less inclined to emerge into the sunlight and more inclined to clandestinely conduct their operations and meetings.

Nixon wrote years later in his memoirs that he did not want to outlaw the Communist Party. "I believed that this approach would be inefficient and counterproductive. The practical effect of outlawing the party would only be to drive the hard core of true believers underground. I thought it made more sense to drive the Communist Party into the open so that we could know who its members were" (Nixon 1978:46). But Nixon was not driving anyone into the open – he failed to see that requiring Communists to register with the Attorney General would also drive them underground. This should have been apparent to Nixon, considering he received a plethora of letters from the Communist Party specifically stating that, "If the bill became law, the party would not register under it and expose its members to police persecution and blacklisting" (Gellman 1999:162).

Irwin Gellman (1999) observed that Nixon "reflected the opinions of a significant portion of American society that was anxious about the growing Red menace" (160). In many respects, this is true. By December of 1949, Americans favored outlawing Communism by a margin of four to one (Rose 1999:221). NBC Radio, for

instance, canceled the fall premiere of the *The Aldrich Family* because a member of its cast was suspected of being a party-liner (“The Heat’s On” 1950:13). Another poll revealed that in the event of a war with the Soviet Union, most Americans agreed that it would be acceptable to imprison those who subscribe to Communist ideology. Still, 13 percent of the public even “approved of shooting or hanging” every communist (Rose 1999:221). In the first week of September in 1950, Harry L. Warner called a second half-hour midday break at his Hollywood studio. For thirty minutes, he lectured to “two thousand executives, stars, and technicians on the evils of communism” (Rose 1999:219). Communism was a popular issue and, like Senator Joseph McCarthy, Nixon knew it (Gellman 1999:176).

“I advocate these restraints on Communism,” argued Senator Mundt, also co-author of the bill, “as I advocated restraints on the Bunds whose activities were guided by Hitler.” Mundt went on to argue that, “communists in this country are guilty of sabotage, propaganda, against the interests of the United States in time of war, physical abuse during elections (and murder) plus hundreds of crimes such as draft dodging, passport faking, perjury and lesser crimes” (Gellman 1999:114). The political leadership’s latest attempt to subvert the rights of its own citizens under the guise of legislation intended to prevent subversion was nothing new. Even without new legislation, communists were already barred from federal employment *vis-à-vis* “loyalty tests.” They were barred from teaching in many schools and colleges; from jobs in the defense industry; and in some cities and states, they were even barred from the ballot (“U.S. Communists” 1950).

An attempt to defeat the legislation was made by The National Committee to Defeat the Mundt Bill. This relatively benign committee was thoroughly investigated by the House Committee on Un-American Activities, or HUAC. During their investigation, HUAC went to great lengths to expose a connection between the lobbyists and the Communist Party. The United States’ official portrayal of the Communist party is that its objective is to overthrow the United States government by “force and violence” (U.S. House of Representatives’ Committee on Un-American Activities 1950:4). The inference made by HUAC in its report is that no credence can be given to lobbyists who violate the very laws it lobbies against.

The lobby group, regardless of its political affiliations, exaggerated the effects of the Mundt-Nixon bill almost as much as legislators exaggerated its necessity. The lobbyists felt the Mundt-Nixon bill would “put into effect in the United States the infamous Nazi decrees invoked by Hitler when he seized power in 1933, thus placing the American people under the yoke of ‘legal’ fascism” (U.S. House of Representatives 1950:6). They also felt that it would label persons or groups opposed to Jim Crow, anti-Semitism, and lynching as “subversive” and thus allow the government to restrict those groups’ civil liberties. Most dramatically, it “would outlaw the First Amendment” (U.S. House of Representatives 1950:7). The *People’s World* brazenly wrote: “The

fight against the Mundt-Nixon bill is the first line of defense of American democracy!" (Gellman 1999:162).

The far left was not the only voice in America arguing against the bill. Nixon's opponent in the upcoming congressional elections, Stephen I. Zetterberg, felt the bill sanctioned "guilt by association." He added: "If we are to keep America free, we should not allow Americans to be condemned simply because they belong to any organization or club, or simply because they think differently from others of us" (Gellman 1999:162). Nixon advised his political allies to use Zetterberg's opposition against him; he knew there was great political capital in anti-subversive legislation.

Others questioned the legislation. Mayor William O'Dwyer of New York, a Catholic and war veteran, was strongly opposed to Communism and felt Mundt-Nixon inhibited freedom "to discuss and criticize, freely and openly" (Gellman 1999:162). D.F. Bulwert, a lifelong Republican, wrote to Nixon that he was renouncing his party affiliation as a result of Mundt-Nixon. "You and the Republican Party," he angrily wrote, "are nothing but an un-American crew of Fascist bastards bent upon ruining the last free country in the world." The proposal would, "Hitlerize America using a few thousand measly Reds as an excuse" (Gellman 1999:166).

On May 21, 1948, the House passed Mundt-Nixon with a victory of 319 to 58, but the bill died because the Senate never took action (Nixon 1978:47). Two years later, the bill was re-introduced in response to President Truman's proposal for new legislation dealing with Communists ("Communist Control" 1950). When the bill was reintroduced, it was expanded to require all literature or broadcast produced by an organization officially labeled as Communist to state: "Disseminated by——, a Communist Organization" or "The following program is sponsored by ——, a Communist Organization" ("Examples" 1950). Representative Ben. F. Jensen of Iowa remarked that, "had the bill become law at that time [referring to when it was passed by the House in 1948], many more of these Red rascals still running at large would have been silenced long ago, and above all, fine American boys would not be shedding their blood on foreign soil today" (81st Cong. 1951:A4295-A8014). Representative Jensen naively thought the Korean War could have been avoided had only legislation been passed to expose and crush the communist threat before it infected Korea.

Senator Mundt argued that the bill actually guarded democracy at home. "We need to emphasize the protection of the individual against local usurpers or dictators" (81st Cong. 1951:A4295-A8014). Yet the bill restricted the travel of self-proclaimed Communists by denying passports, putting restrictions on their place of employment, forbidding them from entering into certain positions of leadership, and treating a political ideology as "an outright international conspiracy to overthrow democracy throughout the world." Proponents claimed, "The Constitution did not seek to deny the country the right to defend itself against those who would destroy it and that the measure

proposed nothing that would infringe upon the civil liberties of ‘any decent and loyal American.’” At the same time, opponents such as Representative John S. Wood denounced it as “thought control” and “unconstitutional” (“Bill” 1950).

When the House passed the bill again, with an even greater victory of 354 to 20, Nixon was “Praised for Service in Control of Reds” (“Nixon Praised” 1950). Not everyone was content. Representative Usher L. Burdick accused the House of “legislating in a spirit of hysteria” (“Communist Control” 1950). In many respects, the latter may have been more accurate. Shortly after it passed, Los Angeles County attempted to immediately duplicate some of the bill’s requirements even before it was put into federal law. The Los Angeles County Board of Supervisors passed an emergency ordinance “requiring all Communists or Communist sympathizers...to register at the sheriff’s office after September 1st or face a \$500 fine and six months in jail for each day’s failure to register” (“The Heat’s On” 1950). Few Americans sympathized with Los Angeles Communists for having to endure public scrutiny and special status as a result of their political ideology. The fact that it was “an emergency ordinance” also reveals the absurdity of the public’s perception of the Red threat.

Unlike in 1948, the Senate took action on Mundt-Nixon. For three weeks, senators debated whether or not they should accept or amend the House bill. Senator Pat McCarran decided to submit a new bill that contained “some of the provisions” that Mundt-Nixon had but with one harsh addition referred to as the “Emergency Detention Act of 1950” (*Internal Security Act* 1950:35). Lisle Rose (1999) calls it the “concentration-camp clause” (220). The bill reads: “The detention of persons who there is reasonable ground to believe *probably* will commit or conspire with others to commit espionage or sabotage is, in a time of internal security emergency, essential to the common defense and to the safety and security of the territory, people, and the Constitution of the United States of America” (*Internal Security Act* 1950:37). Under this act, that person shall not be fined more than \$10,000 or “imprisoned not more than ten years, or both” (*Internal Security Act* 1950:46).

“The Congress of the United States,” Senator Humphrey passionately conveyed during a four-hour speech, “will regret the day it ever passes S. 4037... It will prove to be one of the darkest pages in American history” (Rose 1999:221). In an attempt to seek a compromise, McCarran added some constitutional guarantees to those detained. Upon hearing the compromise, Senator Lucas remarked, “We’ll have signs on our concentration camps. They’ll read, ‘It’s not comfortable, but it’s constitutional’” (Rose 1999:221). Astonishingly, the McCarran Act passed by a large margin. The Communists, for their part, vowed never to register. Mr. Foster, who was part of the U.S. Communist leadership, fervently remarked, “We shall be doing what other progressive, but persecuted, minority movements have done before us in this country—among them the patriotic forces in our Revolution of national liberation, the abolitionists of Civil War times and trade unionists in the big

trustified, unorganized industries only a few years back, when to be known as a union member meant to court instant discharge” (“U.S. Communists” 1950).

In 1948, as an antidote to the perceived Communist agenda, the United States government legitimately denied some fundamental rights to certain citizens based on their political beliefs. The fall of China to communists, the detonation of the atomic bomb by the Soviet Union, and the Korean War all added to the rapidly building momentum of paranoia. These events, in combination with an extensive history of anti-communism and a form of government diametrically opposed to communist ideology, led Nixon to create an animal that eventually transformed into the Internal Security Act of 1950. The United States, a nation unwavering in its commitment to democracy and freedom of speech, was willing to curtail some of those freedoms because it was being crushed under the weight of its own fear. Truman, after Mundt-Nixon passed, questioned its constitutionality. In a wise statement he cautioned: “We must be eternally vigilant against those who would undermine freedom in the name of security” (“Examples” 1950). He went on to veto the Internal Security Act of 1950, calling it legislation that makes “a mockery of the Bill of Rights and of our claims to stand for freedom in the world” (81st Cong., 15629-32). Perhaps he speaks to us today. Nixon, in a nationwide radio broadcast, defended the bill, saying it “enhance[d] the Attorney General’s arsenal in the battle against Communist penetration” (Gellman 1999:164). Those words sound somewhat familiar – except today it is not “Communist penetration” but terrorism; it is not the Internal Security Act but the USA Patriot Act; it is not then but now.

The USA Patriot Act allows non-citizens to be apprehended and deported if they belong to an organization the government considers affiliated with a terrorist organization. Furthermore, it vastly expands the legal limitations to eavesdropping on private conversations and e-mail. The government can enter and search private property, provided a warrant is issued, without notifying the owner (Weinstein 2002:A1). In a statistic reminiscent of McCarthyism’s hysteria, one in four Americans is in favor of random searches of anyone who appears Arab or Muslim (Morin 2002:A07). Since September 11, more than a thousand non-citizens mysteriously disappeared from their daily lives. Only now are some trickling out of their detention centers and sharing their horror stories (Serrano 2001:A4). By listening to the past, we will be more aware and thus better equipped to prevent real terrorists from hijacking the Bill of Rights and crashing it into all we hold sacred – freedom.

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