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Ashcroft Out of Control

Ominous Sequel to USA Patriot Act

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Many of the new security measures proposed by our government in the name of fighting the "war on terror" are not temporary. They are permanent changes to our laws. Even the measures that, on the surface, appear to have been adopted only as long as the war on terror lasts, could be with us indefinitely. Because, as Homeland Security director Tom Ridge himself has warned, terrorism is a "permanent condition to which America must . . . adjust.

American Civil Liberties Union, January 29

Since September 11, 2001, a number of us at the *Voice* have been detailing the Bush administration's accelerating war on the Bill of Rights -- and the rising resistance around the country. This battle to protect the Constitution, and us, has entered a new and more dangerous dimension.

On February 7, Charles Lewis, head of the Washington-based Center for Public Integrity, received a secret, but not classified, Justice Department draft of a bill that would expand the already unprecedented government powers to restrict civil liberties authorized by the USA Patriot Act. This new bill is called the Domestic Security Enhancement Act of 2003. Lewis, in an act of patriotism -- since this still is a constitutional democracy -- put the 86-page draft on the center's Web site, where it still remains (www.publicintegrity.org).

On the evening of February 7, Charles Lewis discussed this new assault on our fundamental liberties on Bill Moyers's PBS program, *Now*.

Three days later, on the editorial page of the daily *New York Sun*, primarily a conservative newspaper, Errol Louis wrote: "[The] document is a catalog of authoritarianism that runs counter to the basic tenets of modern democracy."

I have the entire draft of the bill. Section 201 would overturn a federal court decision that ordered the Bush administration to reveal the identities of those it has detained (imprisoned) since 9-11. This sequel to the USA Patriot Act states that "the government need *not* disclose information about individuals detained in investigations of terrorism until . . . the initiation of criminal charges."

Many of the prisoners caught in the Justice Department's initial dragnet were held for months without charges or contact with their families, who didn't know where they were.

And these prisoners were often abused and out of reach of their lawyers -- if they'd been able to find a lawyer before being shifted among various prisons. When, after much pressure, the Justice Department released the numbers of the imprisoned, there were no names attached, until a lower court decided otherwise.

Under the proposed Ashcroft bill reversing that court decision, for the first time in U.S. history, secret arrests will be specifically permitted. That section of bill [Section 201] is flatly titled: "Prohibition of Disclosure of Terrorism Investigation Detainee Information." In Argentina, those secretly taken away were known as "the disappeared."

Moving on, under Section 501 of the blandly titled Domestic Security Enhancement Act of 2003, an American *citizen* can be stripped of citizenship if he or she "becomes a member of, or provides material support to, a group that the United States has designated as a 'terrorist organization,' if that group is engaged in hostilities against the United States."

Until now, in our law, an American could only lose his or her citizenship by declaring a clear intent to abandon it. But -- and read this carefully from the new bill -- "the intent to relinquish nationality need not be manifested in words, but can be *inferred* from conduct." (Emphasis added).

Who will do the "inferring"? A member of the Justice Department. Not to worry. As John Ashcroft's spokeswoman, Barbara Comstock, says of objections to this draft bill: "The [Justice] department's deliberations are always undertaken with the strongest commitment to our Constitution and civil liberties." (This is a faith-based administration.)

What this section of the bill actually means is that if you provide "material support" to an organization by sending a check for its *legal* activities -- not knowing that it has been designated a "terrorist" group for other things it does -- you can be stripped of your citizenship and be detained indefinitely as an alien. While South Africa was ruled by an apartheid government, certain activities of the African National Congress were categorized as "terrorist," but many Americans provided support to the legal anti-apartheid work of that organization.

Under Section 302 of John Ashcroft's design for our future during the indefinite war on terrorism, there is another change in our legal system. Under current law, the FBI can collect DNA identification records of persons convicted of various crimes. But under the USA Patriot Act II, the "Attorney General or Secretary of Defense" will be able to "collect, analyze, and maintain DNA samples" of "suspected terrorists." And as Georgetown law professor David Cole notes -- "mere association" will be enough to involve you with suspected terrorist groups. What does "association" mean? For one thing, "material support," under which you could lose your citizenship.

In reaction to the stealth with which the Justice Department has been crafting this invasion of the Bill of Rights, Democratic senator Patrick Leahy of Vermont, ranking minority member of the Senate Judiciary Committee, said on February 10: "The early signals from the administration about its intentions for this bill are ominous. . . ."

"For months, and as recently as just last week, Justice Department officials have denied to

members of the Judiciary Committee that they were drafting another anti-terrorism package. There still has not been any hint from them about their draft bill."

Leahy continued: "The contents of this proposal should be carefully reviewed, and the public must be allowed to freely engage in any debate about the merits of any new government powers the administration may seek."

But where is the debate in Congress or in the media? After a few initial press stories about the USA Patriot Act II, there has been little follow-up. To be continued here.

Read more of the *Voice*'s coverage of the attack on civil liberties in post-September 11 America.

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