

Good Day, and Good Luck—Patriot II and the American Empire

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“The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield its protection of all classes of men, at all times, and under all circumstances....”

--Supreme Court Justice David Davis (1866)

“Whatever the outcome of the war, America has embarked on a career of imperialism, both in world affairs and every other aspect of life....”

--Virgil Jordan, president of the National Industrial Conference Board (1940)

The Congress will be voting soon on an extension of the Patriot I Act. Re-affirmation of this problematical act will, among other things, set the stage for the introduction of Patriot II, which, if enacted as is, could well serve as a legal basis for a police state. Do I exaggerate? Read on, and decide for yourself.

In January of 2003, the Department of Justice completed a draft of a bill titled the “Domestic Security Enhancement Act of 2003,” also known as the “Patriot II Act.” The American Civil Liberties Union obtained a copy of the draft, and in the February of the same year, counsel Timothy H. Edgar posted a detailed analysis of the proposed act on the ACLU website.

The text of the analysis, which runs to 25 pages, cannot be summarized easily, and so I suggest you access it for yourself and study it “at leisure,” as we used to say in more leisurely times. Below, allow me to indicate just a few of the Big Brotherly sections in the draft and briefly discuss the issues involved.

Section 501

“This section,” Edgar writes, “would permit the government to punish certain criminal activity by stripping even native-born Americans of U.S. citizenship, depriving them of any nationality at all and potentially relegating them forever to imprisonment as undocumented immigrants in their own country. Among the activities that could be punished this way are providing material support for an organization—including a domestic organization—labeled as a terrorist organization by the government, even if support was only for the lawful activities of that organization.” [20]

The presumption underlying this proposal is that political authority and sovereignty are synonymous; and thus the State, like the tyrant kings of old, has every right to do what it pleases with individuals it views as dangerous. The Founders of the American

system recognized this presumption as self-serving Old World royalist garbage and declared that sovereignty is a property of the people.

Governments, the Founders said, derive their “just powers” from the consent of the governed. In the words of Thomas (“Pen of the American Revolution”) Paine: “The fact ... must be that the *individuals themselves*, each in his own personal and sovereign right, *entered into a compact with each other* to produce a government: and this is the only mode in which governments have a right to be established; and the only principle on which they have a right to exist.” In Paine’s view, sovereignty is synonymous with *life force*, and this view was shared by the Founders, or at least the key Founders. The political philosophy generated by this equation is termed “individualism.”

The American system, as established by the Constitution, is the original “New World Order.” What made the system “new” was the definition of sovereignty and life force. In the view of this historian, the American people have generally failed to understand this equation--the very basis of the American system. This failure was highlighted not long ago when President Bush spoke of “transferring sovereignty to the Iraqis.” Not a single commentator (that I know of) took issue with Bush’s presumption that sovereignty and political authority are one and the same.

Section 503

“Under this provision, any immigrant, including longtime lawful permanent residents, may be expelled from the United States on the unilateral determination of the Attorney General that they are a threat to ‘national security,’ which is now defined as ‘the national defense, foreign relations, or economic interests of the United States.’ A person facing removal under this section will be separated from his or her family and community without ever being able to [ascertain and] answer the government’s true reasons for labeling him or her a security risk.” [21]

“The judicial Power of the United States,” the Constitution declares, “shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time order and establish.” *The office of the Attorney General is not a court, and the Attorney General is not a judge.* Period.

This brazenly unconstitutional provision effectively replaces the Supreme Court!—replaces it with a kind of judicial authority we have not seen since the Inquisition. The Attorney General of the United States is to be made into a Grand Inquisitor!

Let not the fact section 503 concerns “aliens” diminish your concern. Under section 501, any native-born American citizen can be turned into an undocumented alien. Under yet another section, according to Edgar, the Grant Inquisitor would be empowered to deport persons regarded as security risks to any country in the world!—even to areas which are lawless and have no governing authorities.

Section 302

This section would terminate court-ordered limits on police spying designed to prevent McCarthy-style persecution based on political or religious affiliations. Prior to the issuance of Federal Court prohibitions against police spying, police departments in many cities spied on innocent members of the public who were active in churches, community groups and political organizations. Such spying is not a thing of the past, however. Recently, citizens of Denver (CO), Edgar writes, were shocked to learn that the Denver Police Department had kept more than 3,000 illegal files on peaceful protest groups, including Amnesty International and the Nobel Peace Prize-winning American Friends Service Committee. The file on the Friends Service Committee, Edgar says, was labeled “criminal extremist group.”

The removal of court restrictions on police “intelligence gathering” would have a chilling effect on dissent, Edgar observes, “making Americans afraid to join protest groups and activist organizations, attend rallies, or express their views on controversial policies such as abortion or the war in Iraq.”

I read this provision as a part of an administration effort to turn all law enforcement agencies, on all levels, into one vast surveillance machine. Why would they want to do this? Why turn our country into a prison house? I have a long answer to this question, which I’ll provide in a future article. At the moment, allow me to provide just the short answer....

The word is these days that the United States, which originated as an anti-imperialistic republic based on the philosophy of individualism (individuals are the holders of the sovereignty), has been converted into an empire. A number of excellent contemporary books track that conversion. On the top of my list of recommended studies is Peter Irons’ *War Powers—How the Imperial Presidency Hijacked the Constitution*.

There is a big question in my mind as to whether the United States is, in fact, the *real* empire, or simply a stooge of the real empire. Is the real empire the “military-industrial complex” President Eisenhower warned us about?—or perhaps the “New World Order” that the conspiracy writers have endeavored to expose?

If there is a “real empire” that operates through the United States and other countries, here’s a clue as to its likely origin: Our old enemy King George III wasn’t terribly happy about losing his North American colonies, and so he commissioned British intelligence to devise and implement a plan for destroying independent republicanism in North America and wherever else it might raise its ugly anti-monarchic head.

The ultimate ideological target of the reactionaries was the absurd (from their point of view) notion that individuals are *co-sovereigns*—co-creators and co-owners of the governmental apparatus. The movement to defeat individualism resulted in the generation of a political philosophy called “socialism.” The central idea in socialism is

that the “social-organism” is the big, important thing and individuals are of value only to the extent they serve the social organism.

Whether the United States is the real empire or not, it is widely perceived as a very real, and not very friendly, empire. Thus it behooves all Americans to really understand the following....

Empires are the death of representative democracies. A nation that embarks upon a career of imperialism inevitably makes countless enemies, at home and abroad; and the constant threat posed by these enemies causes the emperor and his cronies to devise every means they can of “gathering intelligence” on all that occurs within the empire—and of “neutralizing” all who are perceived as enemies or potential enemies. And thus ... the Patriot II proposal, drafted by the Justice Department, an agency of the emperor, not by the supposed representatives of the people.

Two closing thoughts:

*The cell biologist Dr. Bruce H. Lipton has said that an organism can be in a growth mode or a protect mode, but it cannot be in both modes at the same time. A nation state is an organism. It may be that empires are the death not only of democracy, but also of qualitative national growth.

*The Congress is authorized by the Constitution to establish “inferior Courts” (see above). Let Congress establish a special court responsible for the disposition of cases (throughout the empire) involving non-citizens. I suggest this court be called the U.S. Accords Court, as it must be responsive to international agreements, such as the Geneva Accords, as well as national law. Such a court would represent a constitutional solution to many, if not all, of the problems that Patriot II addresses.

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Note: The above representation of the draft of Patriot II relies upon the analytic skill of ACLU counsel Edgar. In cases such as this, it is always a good idea to consult original documents, when available. As it happens, the draft in question is available on the Net, at <http://www.poptel.org.uk/statewatch/news/2003/feb/patriot2draft.html>.

Happy holidays to you!—and during the coming weeks, please see, or see again, the George Clooney movie “Good Night, and Good Luck.” This film is a timely reminder of the fact that one of the greatest threats to a free nation—a threat we faced in the Joseph McCarthy era—is fear-mongering in high places.

Good day, and good luck!

