

MAJOR PROVISIONS OF BILLS AND LAWS ON INTERNAL SECURITY

McCARRAN AND MUNDT-FERGUSON BILLS

S. 4061 AND EXISTING LAW

A. Mundt-Ferguson Bill

1. The principle feature is the registration of each communist organization and each communist front organization.

- a. A communist political organization is defined as an organization with the usual characteristics of a political party which is substantially dominated by a foreign government and operates primarily to advance the objectives of the world communist movement. A communist front organization is defined as any organization primarily operated for the purpose of giving aid and support to a communist political organization.

In the case of the registration of a communist political organization, it is required to list the names and addresses of all officers and all members. A Communist front organization must register and supply the names and addresses of all officers.

- b. A Subversive Activity Control Board is established by this bill composed of three members. The function of this Board is to determine whether an organization is a communist political organization or a communist front organization for the purposes of registration and to determine whether a particular person is a member of such a registered organization. The Board will make findings of fact and issue orders which may be appealed to the United States Court of Appeals of the District of Columbia. The finding of the Board as to the facts shall be conclusive "if supported by the preponderance of the evidence".
- c. In determining whether an organization is a communist political organization the Board shall "take into consideration" the following factors:
  - (1) "The extent to which" its policies and activities are performed under the direction of a foreign government.

1. Present law provides for registration of certain individuals and groups:

- a. All aliens (8 U.S.C.Ch.10)
- b. All agents of foreign governments (22 U.S.C. 611-621)
- c. Members of foreign controlled organizations engaging in political activity. (18 U.S.C. 2336)

S. 4061 provides:

- a. Persons who have knowledge of or have received instructions in the espionage, counter-espionage, or sabotage tactics of a foreign country or of a foreign political party, subject to certain exceptions, are required to register under the Foreign Agents Registration Act (the exceptions cover innocent knowledge and cases sanctioned by the intelligence authorities in the interest of security).

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- (2) "The extent to which" its views and policies do not deviate from those of a foreign government or foreign organization.
  - (3) "The extent to which" it receives financial aid from a foreign government.
  - (4) "The extent to which" it sends members to any foreign country for instruction or training.
  - (5) "The extent to which" its leaders recognize the disciplinary powers of a foreign government.
  - (6) "The extent to which" it reports to a foreign government.
  - (7) "The extent to which" it fails to disclose its membership or other pertinent information, and the extent to which its meetings and operations are secret.
  - (8) "The extent to which" its leaders consider the allegiance they owe to the United States as subordinate to obligations to other countries.
- d. In determining whether an organization is a communist front organization, the Board shall "take into consideration":
- (1) "The extent to which" persons active in its management are active in the management of any communist political organization.
  - (2) "The extent to which" financial support is received from any communist political organization.
  - (3) "The extent to which" its resources are used to further the political objectives of any communist political organization.
  - (4) "The extent to which" the positions taken by the organization on matters of policy do not deviate from those of a communist political organization.

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2. After all proceedings for registration have been completed, the following prohibitions, enforced by fines and imprisonments, will be effective against registered organizations and their members.

a. When an organization is registered as a communist political organization, it will be illegal for any of its members to hold any non-elective office or employment in the United States Government.

(1) It would be unlawful for any person to conceal the fact that he is a member of such an organization when applying for such a job.

(2) It would be unlawful for any employee of the government to employ such an individual.

b. It would be unlawful for any member of a registered communist political organization to make application for a passport or to use a passport or for an officer of the United States to issue such a passport.

c. All tax deductions for contributions made to any organization registered under this Act are denied and the organization itself will not be eligible for tax exemptions as a non-profit organization.

d. Any communist political organization or communist front organization registered under this bill may not send any publication in interstate commerce unless it is marked "Disseminated by \_\_\_\_\_, as a communist organization", or to broadcast or televise any program without announcing that it is sponsored by a communist organization.

e. Any individual who is a member of a registered communist political organization, but whose name was omitted by the officers of that organization, must himself register with the District Attorney or he may be fined or imprisoned.

f. It would be unlawful for any individual to remain a member of any organization when he knows that such organization is required to register but has not registered.

The provision of Section 9A of the Act of August 2, 1939, to prevent pernicious political activities, prohibits government employees from membership in organizations advocating the overthrow of the Government. This law, together with Executive Order 9835 establishing membership in a communist organization as a factor in determining loyalty and the annual clause in appropriation bills denying the use of appropriated funds for the pay of any communist, complete a loyalty program denying government employment to communists.

Provisions of law dealing with the issuance of passports (22 U.S.C. 211 - 299) give to the Secretary of State discretion to deny passports to communists and others in the interests of national security.

Since February 1943, the Bureau of Internal Revenue has denied deductions and exemptions with respect to organizations listed by the Attorney General under the loyalty program. Examples of such denials by the Bureau are the International Workers Order, the Joint Anti-Fascist Refugee Committee and the National Council of American Soviet Friendship.

The prosecution of members of the Communist party attained by these provisions may be carried out under the Smith Act (18 U.S.C. 2384-5) under which eleven communist leaders have already been convicted.

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3. Section 4(a) of this bill makes it unlawful "knowingly to combine, conspire or agree with any other person to perform any act which would substantially contribute to the establishment within the United States of a totalitarian dictatorship" under the control of "any foreign government, foreign organization or foreign individual".

Under the Smith Act (180 U.S.C. 2384-5) members of the Communist Party may be prosecuted without the need of proving control by a foreign government which is required in S. 2311.

4. Espionage

It is unlawful for any employee of the United States to communicate to any representative of a foreign government or member of any communist organization, any classified information unless authorized to do so.

See outline of provisions relating to espionage which follows.

It is unlawful for any agent or representative of any foreign government to obtain or attempt to obtain any such classified information.

5. A ten year statute of limitations is provided for any violations of the sections outlined in 3 and 4 above.

S. 4061 extends the statute of limitations from three to ten years on all acts involving espionage.

B. McCarran Bill contains all provisions of the Mundt-Ferguson Bill outlined above, with language changes, and in addition the following.

A. Mundt-Ferguson Bill - Not Covered

B. McCarran Bill - Same

1. Espionage

*S-4061*

The following conduct shall be punishable by a fine up to 10 thousand dollars, imprisonment for not more than 10 years, or both.

a. Persons entering upon or flying over any facility related to national defense with the purpose of obtaining information respecting national defense with intent or reason to believe that the information is to be used to the injury of the United States or to the advantage of any foreign nation. Any person who otherwise obtains such information with similar purposes is subject to such punishment.

b. A person unlawfully in possession of vital information who has reason to believe that it could be used to the injury of the United States who wilfully retains it or wilfully communicates it or attempts to communicate it to any improper person.

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- A. Mundt-Ferguson - Not Covered
- B. McCarran Bill - Same

c. A person entrusted with vital information who, through gross negligence permits it to be removed from proper custody or who has knowledge that such information has been illegally removed and fails to report promptly this fact to his superior officer

The Statute of Limitations applicable to the acts listed above and also applicable to harboring and concealing persons guilty of such acts, and to conduct involving communications or attempted communications with a foreign country, is extended from three to ten years.

- A. Mundt-Ferguson - Not Covered
- B. McCarran Bill - Same

2. Persons who have knowledge of or have received instructions in the espionage, counter-espionage, or sabotage tactics of a foreign country or of a foreign political party, subject to certain exceptions, are required to register under the Foreign Agents Registration Act (the exceptions cover innocent knowledge and cases sanctioned by the intelligence authorities in the interest of security).

- A. Mundt-Ferguson - Not Covered
- B. McCarran Bill - Same

3. Security of Defense Facilities

Penalties of 5 thousand dollars and imprisonment for not more than 1 year are provided in cases where persons wilfully violate regulations of the Secretary of Defense promulgated for the security of our military facilities. A similar law formerly in effect expired on June 30, 1947.

- A. Mundt-Ferguson - Not Covered
- B. McCarran Bill - Same

4. Strengthening the Attorney General's Authority over Deportation

a. Under existing law the Attorney General is restricted to deporting an alien to the country from which he embarked to the United States, to the country of citizenship, or to the country of his birth. Deportation must be attempted to the countries in the order shown. This results in needless delays. S. 4061 permits the Attorney General to deport the alien to the country of the alien's choice or to any country which will receive him.

b. Detaining Deportable Evidence

S. 4061 authorizes the Attorney General to detain an alien pending a final determination of the deportation proceedings, and for six months thereafter in the case of an alien against whom a deportation warrant has been issued. (The Attorney General does not

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- A. Mundt-Ferguson - Not Covered
- B. McCarran Bill - Practically the same in effect but different in language.

5. Supervising Aliens Subject to Deportation.

S. 4061 authorizes the Attorney General to supervise closely the activities of aliens awaiting deportation. This supervisory authority even goes to the extent of excluding such aliens from areas vital to our national security.

Any alien who fails to comply with any of the supervisory requirements will be subject to prosecution for a felony, and if convicted he may be fined up to 10 thousand dollars or imprisoned for as much as five years or both.

B. McCarran Bill

Stricter Exclusion Laws

The McCarran bill broadens the group of aliens who for subversive reasons can not be admitted to the United States. The following groups would be excluded:

- a. Aliens who enter to engage in activities which would be prejudicial to the public interest or endanger the welfare or safety of the United States.
- b. Aliens who are or have been members of the following classes: those who advise, advocate or teach, or are affiliated with any organization that advises, advocates or teaches opposition to all organized government; members of communistic totalitarian parties; aliens who advocate the economic international and governmental doctrines of world communism, or any other form of totalitarianism; aliens who write or publish, or cause to be written or published, or knowingly circulate, etc. publications etc. advocating opposition to all organized government and other revolutionary doctrines.
- c. Any person who is likely to engage in revolutionary activity or is likely to join or participate in the activities of any communist or communist front organization.

Existing Law

The present law generally provides for the exclusion or deportation from the United States of aliens who advise, advocate or teach the overthrow by force and violence of the government of the United States. Such conduct at any time after entry requires the deportation of the alien.

Specifically, our present laws exclude any person who at any time has been a member of any of the following classes: (1) aliens who advise, advocate or teach or affiliated with any groups that advise, advocate or teach opposition to all organized government; (2) aliens who advocate the overthrow of the government of the United States or unlawful conduct against the laws of the United States; (3) aliens who write, publish or cause to be written or publishes or who knowingly circulate, distributes, etc. publications and printed matter, etc. advising, teaching or advocating opposition to all organized government or the overthrow of the United States or opposition to our laws.

(In the last three years approximately 200 communists were excluded at the borders and seaports of the United States under these laws.)

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B. The McCarran Bill like our present laws requires deportation of certain people who enter in violation of our immigration laws. The McCarran bill, however, goes much farther than existing law by applying many of the exclusionary restrictions of our laws to staff personnel of foreign governments. Under the McCarran bill aliens who may engage in activity prejudicial to the public interest or who may likely engage in activities subversive to the national security of the United States may be excluded unless they are of the rank of diplomatic and consular officials or higher, or of the rank of principal resident representative of an international organization. All staff members of such high officials would be subject to these exclusionary provisions.

No such broad application is provided in existing laws.

*This belongs under Naturalization Page 8*

B. The McCarran bill, with a minor exception would deny citizenship to anyone who within ten years prior to his application for citizenship had been in one of the above groups.

Present law likewise would deny citizenship to anyone who at any time within ten years had been in one of the above groups.

The McCarran Bill contains the doctrine of revocable citizenship permitting the taking away of citizenship from any naturalized citizen who at any time within five years after his naturalization joined a revolutionary party, association, or communist front organization.

The present law does not establish these two different classes of citizens.

This bill also requires (with exceptions) the taking of a prescribed oath pledging a willingness to bear arms, as a condition for citizenship.

Present law requires an oath pledging support to defend the Constitution and laws of the United States against all enemies.

As a general condition to citizenship a person must be able to read, write, and speak English: This is in effect a literacy test for citizenship.

Present law requires only the ability to speak English.

Bureau of Passports and Visas

The McCarran Bill establishes in the Department of State a Bureau of Passports and Visas. Its Director must be native born: He shall have authority to maintain direct liaison with the F.B.I., other intelligence agencies and with the Immigration and Naturalization Service.

Passports and visas are now handled by separate divisions of the State Department.

Picketing and Parading

Any person who pickets, parades, in or about a United States Court with the intent of interfering with, obstructing or impeding the administration of justice or with the

There is no such provision in existing law.

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intent of influencing the outcome of judicial proceedings shall be fined up to 5 thousand dollars or imprisoned for 1 year or both.

Naturalization

The McCarran Bill would deny citizenship to anyone generally falling in the same groups which would be barred from entry into the United States under Section 22 of this bill. (See immigration provisions above) These include:

- a. Persons who advise, advocate or teach, or affiliate with any organization that advises, advocates, or teaches opposition to all organized government.
- b. Members of or persons affiliated with a communist organization or communist front organization.
- c. Persons who advocate the economic international or governmental doctrines of world communism or other form of totalitarianism.
- d. One who writes, publishes, or causes to be written or published or who knowingly circulates, etc. or knowingly causes to be circulated etc. or knowingly has possession of material for circulation, etc. which advocates or teaches opposition to all organized government, or overthrow of the government of the United States and other unlawful conduct; or which advocates the economic or international and governmental doctrines of world communism or totalitarianism; or one who is a member of affiliated with an organization guilty of such conduct.

The present Nationality Act provides that no person shall be naturalized as a citizen:

- a. Who advises, advocates or teaches or who is affiliated with any organization that advises, advocates or teaches opposition to all organized government.
- b. Or, who believes in, advises, advocates or teaches the overthrow, by force or violence, of the government of the United States or takes a similar view regarding violent conduct against officials of the United States.
- c. Or, who writes, publishes or causes to be written or published or who knowingly circulates, etc. or knowingly causes to be circulated etc. or knowingly has possession of material for circulation etc. which advises, advocates, or teaches opposition to all organized government, or overthrow of the government of the United States and other unlawful conduct: or one who is a member or affiliated with an organization guilty of such conduct.  
(Note: The present law is stronger than the McCarran bill by penalizing people who advise through publications, etc. revolutionary conduct against the United States. The McCarran Bill does not include this provision.)