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The Federal Loyalty-Security Program, by the Special Committee of the Association of the Bar of the City of New York

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BOOK REVIEWS

THE FEDERAL LOYALTY-SECURITY PROGRAM. Report of the Special Committee of the Association of the Bar of the City of New York. Dodd, Mead & Company. New York, 1956. Pp. xxvi, 289. \$5.00.

In every body politic the apparent conflict between the citizen's demand for freedom and his demand for security must be resolved. In our country the citizens have always demonstrated their faith in the proposition that the truest security is based upon individual freedom. That society wherein complete freedom of thought is not only guaranteed by legal sanction, but even more important, by the spirit of the people is the society of the brave, the free and, therefore, the secure.

We have departed from our emphasis on liberty as opposed to security only rarely in our national history. The most notable exceptions are the alien and sedition laws which were adopted at the time of the French Revolution, and our most recent federal loyalty-security program. The parallel or the lack of parallel in the fact situations giving rise to these two security programs has been made.¹

When the alien and sedition laws were passed, we were a twelve-year-old Union of sixteen states with a government considered only as an experiment, lacking in wealth and military might. Our enemy was France, the most powerful nation on earth. Ruled absolutely by one of the greatest of military geniuses, that most feared of nations occupied the entire western part of our continent. Only the Mississippi River separated us from the enemy.

We have now grown to be forty-eight states, the wealthiest and most powerful nation on earth. We possess proved military might and a stockpile of horrendously effective atomic weapons. Instead of an enemy at our border we have only peaceful nations. Instead of an experiment in government, we have a long history of successful constitutional government.

But we are faced with a new insidious imperialism. Its methods defy distance as well as national borders. While military strength has been maintained and used to advantage, its more characteristic weapons have been: attacks on internal security, tension between us and our allies, encouragement of "nationalism," espionage and subversion to discover our secrets and influence our internal affairs.

1. CHAFEE, THE BLESSINGS OF LIBERTY 116 (1956).

We all agree we are and have been at total, albeit cold, war. The battlefield is the world. The first objective is the minds of men of all nationalities. We must fight this war on a world-wide front while we defend our internal security at home. The big question is: how best to do it?

The adversary's methods of forced uniformity of thought and beliefs have been modernized and rendered much more effective by the application of scientific psychological principles. The natural reaction to the apparent success of these methods has been to urge their adoption for our own benefit.' This we cannot do.

Should we allow the battle to be determined by which side can better utilize the methods of thought control we may be doomed to be defeated because the peoples arrayed against us are masters of this art and it is alien to us. The strength of our nation lies in our free economy and our political system of liberty. It is upon the strength flowing from these freedoms that our security must ultimately depend.

Chief Justice Warren has stated the problem well:

"Our legal system is woven around the freedom and dignity of the individual. A Communist state ignores these values. Ours is the difficult task of defending and strengthening these values while also pursuing a goal that sometimes appears to be in conflict with them—namely, the physical security of our nation. . . . [T]he security procedures set up to protect the federal government have been extended to the point where more than eight million Americans must undergo them. As the system expands, everyone is more closely affected by the balance we strike between security and freedom. Injustices carry a wider import. The Bill of Rights must be measured daily against this new problem."²

Intrinsically, the problem demands Solomon's wisdom. Partisan politics and some demagoguery have compounded the difficulties. If our federal loyalty-security program is less than perfect, which is generally conceded, neither political party can claim pristine innocence. The Truman administration inaugurated it and the Eisenhower regime augmented it. A wholly disinterested study of the entire program by a group of lawyers under the aegis of the Association of The Bar of The City of New York constitutes a real contribution to the nation. The Fund for the Republic, Inc. is to be congratulated on furnishing the money for the

2. Warren, *The Law and the Future*, *Fortune*, Nov. 1955, pp. 106, 229.

project and, more important, on giving the committee complete independence in its study.

To secure evidence on the subject at hand the committee or its staff received testimony or statements from approximately one hundred and fifty persons who either desired to be heard or who were sought out because of their knowledge concerning the operation of the program, including those responsible for the administration of the program.

The report, consisting of 188 pages plus copious notes, statistics and the complete texts of all pertinent statutes and regulations, is comparable to the findings of fact, conclusions of law and supporting opinion of a trial court with a slight bent for the historical and philosophical.

The statement of the nature of the Communist threat, the possible counter measures available to us and where the loyalty-security program fits into them are rare essays on these subjects. They constitute as important a contribution as the very practical step by step analysis of the program.

In lawyer fashion no single criticism is made of the system without an affirmative recommendation for improvement with supporting arguments in behalf of the change. Some of the principal and perhaps characteristic recommendations are: Consolidation of all programs under one administrator to establish uniformity of application and reduction of the bulk of classified information. Application of the program should be limited to those who (a) have access to material classified as secret or top secret or (b) have a policy-making function which bears a substantial relation to national security. Administrative personnel should be trained in the nature of Communism and the political history of the United States. At least one member of every hearing board should be a lawyer. Improvements should be made in hearing procedure to guarantee the elements of procedural due process except in unusual cases where this may be deemed not to be in the national interest.

The book will be of greatest interest to those immediately concerned with the loyalty-security program. It will be rewarding reading for any citizen and particularly those of the legal profession. It is another instance of the dedication to public service by the organized bar which, more than anything else, distinguishes the legal profession from a business or trade.

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