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If you liked Patriot Act I, don't miss the sequel

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16 February 2003

St. Petersburg Times

There is a hero in the Justice Department, someone whose identity I hope stays as secret as Deep Throat.

In the closed-mouth environs of the Bush administration, where a leak will end a career far faster than playing footsie with the industry you are regulating, someone anonymously sent a draft of a bill nicknamed the Patriot Act II to the nonpartisan Center for Public Integrity.

This bombshell is a secretly drafted, 120-page document that proposes to transfer new and unchecked authority to the attorney general: Secret arrests, summary deportations, expanded surveillance without court oversight and the ability to strip Americans of their citizenship are just some of the provisions. But thanks to someone at the Justice Department, John Ashcroft's devious plan has seen the light of day, and opponents are lining up. A statement from the department suggests it may be backing off the draft.

Patriot II -- officially, the Domestic Security Enhancement Act -- was kept secret for a reason, according to Chuck Lewis, whose Center for Public Integrity quickly turned the leaked copy over to the press. "(The Justice Department knows) it's controversial, and they want to keep it quiet for as long as possible until the right precise moment. . . . (which is) when we're at war with Iraq," Lewis said on NOW with Bill Moyers on PBS.

Wait until the public is whipped up to a fever pitch of fear and patriotism and then ram it through a compliant Congress. Hmmm, that has a familiar ring. It sounds a lot like the first Patriot Act, passed only six weeks after the Sept. 11 attacks.

Ashcroft baited Congress to act or be blamed for the next terror attack. He now refuses to answer dozens of questions congressional leaders have sent him on the FBI's use of Patriot Act surveillance powers.

Patriot II would only embolden the get-out-of-my-face arrogance of the Justice Department. The provisions speak to a fundamental change in the American character, from a freedom-loving people who treat individuals -- even those we suspect of wrongdoing -- with fairness and due process, to a populace willing to grant unilateral power to any leader who promises security.

The draft bill would give the attorney general the power to deport any foreign national, even people who are legal permanent residents, if he believes they would negatively affect our national security. No crime need be asserted, no proof offered. It would authorize secret arrests in terrorism investigations -- as a way to overturn a court order requiring the release of names of the Sept. 11 detainees. And it would strip citizenship from Americans for their political associations. People who are members of, or who have supported, a group the attorney general designates "terrorist" would be subject to having their citizenship revoked.

Following Sept. 11 the Justice Department rounded up and deported hundreds of people whom it refuses to identify, for little more than technical immigration violations. The Patriot Act II would take this a step further by endorsing deportation without visa violations, all done secretly and at the attorney general's unreviewable discretion.

John Ashcroft must be channeling A. Mitchell Palmer who, as attorney general after World War I, rounded up thousands of immigrants in 1919 and 1920, deporting hundreds without bail or trial. The witch hunt started after a mail bomb was sent to a former Georgia senator who had filed legislation banning immigration. The bomb crippled the maid who opened it.

Thereafter, a series of mail bombs were found intended for some of the nation's leading citizens such as John D. Rockefeller, J.P. Morgan and Oliver Wendell Holmes. Some 3,000 immigrants were picked up in the resulting hysteria. They tended to be radical leftists, people who supported the growing communist movement or the rise of labor unions. The aim was to deport aliens deemed politically dangerous.

The greatest check on this kind of uncontrolled delirium is the judiciary. When law enforcement has to justify its arrests, detention or surveillance with objective evidence, the most egregious abuses can be tamed. But whole sections of the Patriot Act II are devoted to removing judicial oversight. One section would give federal agents investigating terrorism access to credit reports on all of us, without having to get the permission of a judge. Another would allow the attorney general to unilaterally approve wiretaps and other surveillance whenever Congress authorizes force or in response to an attack on the United States.

After the draft of Patriot II was leaked, the Justice Department issued a statement saying it would be "premature to speculate" on which provisions, if any, are of true interest. We know, however, that this draft was far enough along to have been sent to House Speaker Dennis Hastert and Vice President Dick Cheney. You don't waste the time of these men for a draft that is going into a desk drawer.

Had it not been for one very courageous soul at the Justice Department, we would have been blindsided. May he or she never be discovered. People with an understanding of our nation's constitutional principles seem in short supply there.

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