

Analysis of S.1035, originally for use in briefing Senator Tydings, but not used. It was used to brief Miss Harriet Robnett in Senator Symington's office on 29 August 1967.

S. 1035 applies to all executive departments and agencies of the Government with the exception of the Federal Bureau of Investigation, which is totally exempted. The National Security Agency and the Central Intelligence Agency were granted partial exemptions to certain sections of the bill but the restrictions on these exemptions make them ineffective to accomplish the broad security requirements of these agencies.

The particular sections which create difficulties are:

Section 1 (b). The language is so broad that the Agency could not take notice of the participation of an employee in a meeting of a subversive group.

Section 1 (d). As a security agency, it is imperative that CIA have the authority to ask employees to report on outside activities which, although not directly related to their official duties, could have serious repercussions for the security of the Agency. Examples of this type of activities are: publications, speeches, contacts with foreigners, and sponsorship of foreigners for entrance into the United States.

Section 1 (e). Psychological testing is administered by the Agency's medical staff and is a very useful aid in screening out unsuitable employees. Although partial exemption is granted to the Agency, the burden which would be imposed on the Director in granting individual exemptions would be substantial.

Section 1 (f). Polygraph testing is part of an integral program for screening out unsuitable employees. Each year the polygraph interview identifies many cases of sexual deviation which were not uncovered by field investigation. A partial exemption for the use of the polygraph in the proscribed areas has been granted to the Agency, but the burden it would place on the Director is prohibitive.

Section 1 (k). Granting an employee the right to counsel prior to interrogation which could lead to disciplinary action is incompatible with Agency functions. If the employee chooses counsel who cannot be granted a security clearance, the Agency is effectively barred from interrogating the employee in any case where security issues are involved. When the interrogation involves a sensitive operation, this could lead to loss of life, or to international incidents.

Section 1 (l). Congress has granted the Director of Central Intelligence authority to terminate employees when he deems it in the national interest. This section may qualify that authority and provide new issues on which the authority may be challenged. Together with Section 4 it also impinges on the present exemption of the Agency from any provision of law requiring the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency because of the necessity to reveal information of this type in defense of suits brought under the act.

Section 4. This section permits any employee or applicant who alleges a violation or threatened violation of the provisions of this act to initiate civil action in the courts. The section could create problems in the case of a disgruntled employee, but, more important, it provides those who wish to harass the Agency with a potent weapon. Leftwing elements could seek employment interviews and then allege a violation of this act. A determined group could entangle the Agency in lawsuits throughout the United States.