

# Kennedy's Criminal Code Reform Bill Threatens Constitution, Economy

*The Labor Organizers Defense Fund testified before the House Judiciary Committee March 6 against the controversial Criminal Code Reform Act, a revamped version of the hated S-1 bill.*

*This new edition of the supposed reform of the U.S. criminal code sailed through the Senate last month and hearings are expected to last into the third week of March when the bill will be put to a vote in the House. Senator Ted Kennedy (D-Mass.), the sponsor of the bill, has kept it a carefully guarded secret as to just how much of the original S-1 legislation, which drew protest from a wide range of constitutional and citizen groups remains in the bill.*

*A nonprofit organization with both an educational and litigation function, the LODF has been involved in numerous cases defending the Constitution and the American system of scientific development and progress.*

*Portions of the Fund's March 6 testimony appear below.*

This is the most important bill before Congress in many, many years — not simply because it would effect major changes in the system of criminal justice but because, in the guise of codification of existing laws, the bill makes a devastating attack on fundamental principles of American law.

Will Congress merely act as a rubber stamp for certain courts and their case law, and for executive branch commissions and their recommendations, or will it legislate policy to foster the growth and development of American citizens and the American economy?

This criminal code reform is designed for a zero growth, de-industrialized economy. It contains the mechanisms to insure that the American population — historically and now firmly committed to industrial progress, scientific development and individual advancement — will be held in line for policies antithetical to the American tradition. Every section of the population is subjected to the bill's impact. Perfectly law-abiding citizens will see their children's minds and lives destroyed by the drastic relaxation of marijuana laws — a model for the states. Corporations, labor organizations and political organizations will become the targets of continual harassment and prosecution. Criminals will be recycled through the jails for a continuing life of crime. This so-called reform codifies the very social and political policies which are at the root of the collapse of our economy and of American power and influence internationally — continuing Fabian attacks on science, progress, development and the creativity of the individual.

The provisions of this bill might be suitable if the United States were to return to its status as a part of the British colonial empire. If Congress proposes any other course for the future of our country, then this proposed Criminal Code Reform is simply a travesty of justice...

The Constitution established, as the particular responsibility of Congress, the encouragement and development of commerce and industry. The granting of corporate charters by the states was intended to further commercial and economic development also, by providing individual capitalists with some measure of protection from the risks of entrepreneurial ventures. The immunities granted by corporate charter have remained essentially inviolable until this time, under statute. Corporations were not considered capable of criminal acts, for such acts were outside the legitimate purpose of their charter. And only a fraudulent use of the corporate shield knowingly to carry out criminal activities was considered to confer responsibility on an individual. However, Chapter 4 of this bill on Complicity eliminates almost all the immunities of corporate charters, and establishes entirely new categories of prosecution, not for knowing criminal intent, but for *criminal negligence*. Such a standard is unknown in American law except in cases which directly threaten the lives of individuals.

Does Congress intend to strip corporations of their immunities? Does Congress intend to make private enterprise, already choked and fettered with innumerable regulations, subject to criminal penalties in the normal course of business? It is precisely the suffocation of production, and of scientific development that has so weakened the dollar. Certainly it is true that Naderites and environmentalists, within the Justice Department and without, have succeeded in establishing certain case law precedents which infringe on corporate immunities. Is Congress, the only *legitimate* legislative body, prepared to rubber stamp this attack on the American System?...

Congress cannot codify provisions such as Section 403 (b) Omission to Perform a Duty of an Organization, or Section 403 (c) Reckless Failure to Supervise the Conduct of an Organization, particularly when the offenses for which an executive could be charged as a *principal* extend even to violations of regulatory law. No corporate officer or organization head could be adequately compensated for running such personal risks.

The criminal code reform also incorporates, at least in the Senate version, economic warfare provisions which have far-reaching implications. Just recently a Louisiana firm, which builds oil-drilling rigs, was convicted for involvement with extortion and racketeering

activity. That same corporation is in the process of acquiring a large nuclear engineering firm. Under the "Racketeering" provisions of the criminal code reform, this normal acquisition process might very well be regarded as a violation of Section 1803 Washing Racketeering Proceeds because the Louisiana firm could be adjudged involved with "a pattern of racketeering activity" as defined in Section 1806 (e)....

Since the time when Robert Kennedy ran the Justice Department, with the extra-governmental assistance of Ralph Nader and his zero-growth followers, corporations have been subjected to unprecedented Watergate-style attack. Robert Kennedy developed the investigative techniques which are reflected in Senator Kennedy's bill, before you today. The history of the last ten years demonstrates the selectivity of their use, and their completely unconstitutional nature. These are political tools deployed against pro-development forces.

This bill is designed to codify the case law and precedent created by Kennedy victories and to eliminate any obstacles to their future success. It is in that context that the Witness Tampering (Section 1323), Perjury

(Section 1341) and False Statement (Section 1343) portions of the bill can be understood. Each one of these provisions is designed for the specific purpose of entrapping individuals and organizations in unknowing criminal violations of the law.

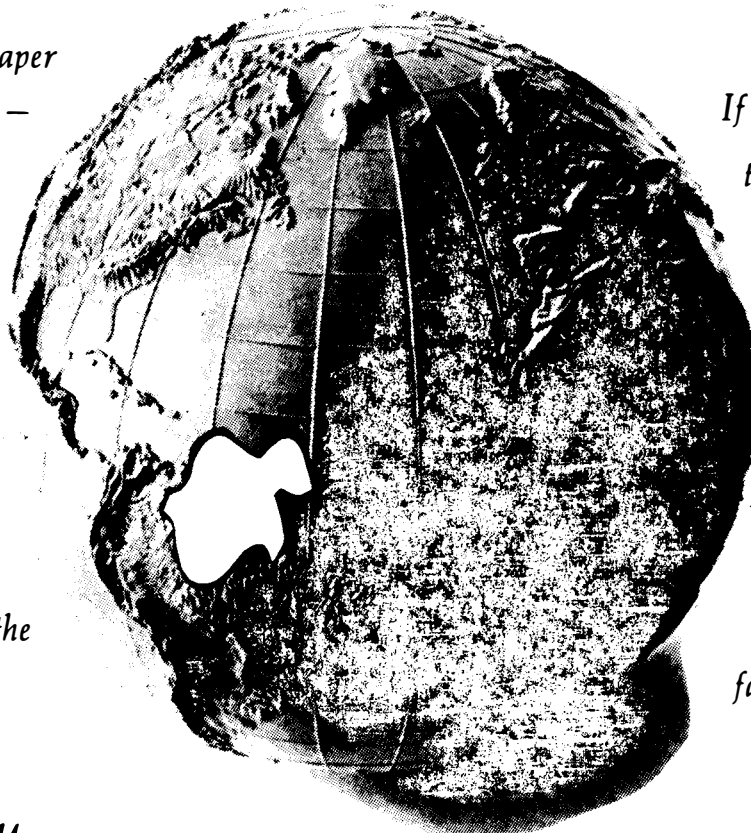
The bill, both conservatives and liberals claim, "just codifies existing law." To the extent that existing law is based on case precedents issued by British-influenced, Fabian and nominalist judges, this is true. To the extent that criminal law has been determined by the proposals of the evil Law Enforcement Assistance Administration (a Kennedy creation) such as the Omnibus Crime and Safe Streets Act of 1968, this is true. However, Congress is now in a position to be fully aware of the havoc created by Kennedy Justice methods. Under the Racketeering Influence and Corrupt Organization (RICO) provisions of the Safe Streets Act, they have waged extensive economic warfare against corporations, trade unions, and other organizations. Should Congress codify this "existing law?" Every section is totally counter to the intent and specific statement of the U.S. Constitution.

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