

*Congressional Record*  
*5 October 1967*

*S-14249*

**S. 1035, AN ACT TO PROTECT THE CONSTITUTIONAL RIGHTS OF EMPLOYEES OF THE EXECUTIVE BRANCH OF GOVERNMENT AND TO PREVENT UNWARRANTED GOVERNMENTAL INVASIONS OF THEIR PRIVACY**

Mr. ERVIN. Mr. President, on September 13, the Senate passed S. 1035, an

act to protect all employees of the Federal Government from unwarranted invasion of their privacy in their personal thoughts, beliefs, and activities. To judge from the letters and telephone calls, I believe that the action of this body gave Americans renewed faith in Congress as guardian of the liberties of the people.

But the Senate only took care of half of the job: much remains to be done. The responsibility for steering this bill on to the Presidential signature now rests with the House of Representatives.

S. 1035 is pending before a subcommittee of the Post Office and Civil Service Committee, together with several companion bills. Among sponsors of these measures are Representatives REUSS, GALIFIANAKIS, REINECKE, CUNNINGHAM, WATSON, MOSS, MATSUNAGA, LONG, LENNON, and FULTON.

The yea-and-nay vote on the passage of S. 1035 shows the overwhelmingly broad bipartisan support for the proposal. The hearing record and subcommittee investigation of the denial of employee privacy amply demonstrate the urgent need for such guarantees. It is my hope that the House will have the opportunity to act on the bill at this session.

Under unanimous consent I include in the Record at this point a number of articles and editorials commenting on S. 1035 and invasion of privacy. These are from the Gastonia, N.C., Gazette, August 31, 1967; the Wilmington, N.C., Morning Star, September 15, 1967; the Washington Post, September 16, 1967; the Christian Science Monitor, September 18, 1967; the St. Louis, Mo., Post-Dispatch, September 21, 1967; the Charlotte, N.C., Observer, September 14, 1967, article by James K. Batten; the Nation, September 25, 1967; Press, Pittsburgh, Pa., September 23, 1967; the Sentinel, Chicago, Ill., September 21, 1967; the Washington Daily News, September 21, 1967; Newsday, Garden City, N.Y., article by Clayton Fritchey, September 20, 1967; the Washington Daily News, September 15, 1967; the Charlotte, N.C., News, September 2, 1967; the News Sentinel, Knoxville, Tenn., August 30, 1967, article by Marshall McNell; Federal Employees News Digest, edited by Joseph Young, September 25, 1967; and Post Herald, Birmingham, Ala., September 21, 1967.

There being no objection, the items were ordered to be printed in the Record, as follows:

[From the Gastonia (N.C.) Gazette, Aug. 31, 1967]

**THE SENATOR HAS GOOD CAUSE FOR BEING RILED**

North Carolina's Sen. Sam J. Ervin Jr. got riled again. And again there will be a lot of people who won't understand why.

From Washington it was reported that the Senator was red-faced, and editorialized that he was furious, because, as he saw it, the Central Intelligence Agency thinks it has a right to "stand above the law."

The Senator does not want the secret CIA organization to have the power to ask employees and applicants for employment about such personal matters as family relationships, religious beliefs, and sex habits.

And he resented the CIA's maneuvering in legislative places to win elimination of his bill which would safeguard people from such invasions.

Further, the Senator left no doubt that he considers the CIA is not only overstepping proper procedure and denying personal

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rights, but also is acting illegally by lobbying as a federal agency on pending legislation.

"They want the unmitigated right to kick federal employees around and deny them the basic rights which belong to every American," Senator Ervin charged. That is strong language for the usually cautious man. And it is forceful language, considering that he is a member of the Senate Armed Services Committee which is supposed to have jurisdiction over the CIA.

There is really no cause for failing to understand the Senator's attitude. It is the same attitude which has governed his words, and actions in many other matters.

Senator Ervin understands perfectly well that the CIA and the National Security Agency—or some agencies by whatever names—have a vitally important job to do.

As long as nations of people build fences around themselves and regard those on the outside as foreign and potential enemies, there will continue to be a need for what used to be called spying and counterspying.

Both demand more than a little secrecy and a great deal of security within themselves.

Neither can ever be completely achieved. For that reason security agencies are always prone to push harder and harder for additional tools and additional powers.

In that, they are no different from any other close-knit pressure group. And, like every other pressure group, they come to a point where benefits gained have so diminished that they are not worth the cost.

That point comes very early when the cost is in terms of the individual person's rights. When those rights are lost, whatever security agency we have, it is no better than its counterpart in Moscow or pre-war Germany. We shall have spent our real treasure trying to protect it.

All this Senator Ervin knows.

And all this is only a part of why he has appeared over and over again struggling for recognition of the person first. It happens that Senator Ervin is an American. He finds the case for the individual extraordinarily well said in the Constitution. So that is where he makes his stand.

If he were an Englishman, he would make the same fight, taking his stand on whatever basic statement of rights he found in the law.

So he rises to the cause of the individual. He knows that every time a pressure group wins for itself, whatever the excuse or justification, every individual man loses.

In short, human rights have to take precedence over all. And those rights are the poverty of individual men and women, not of clubs, associations, unions, races, or government agencies.

Senator Ervin is usually called a conservative. The fact is, he is the most liberal believer in democracy one could find.

[From the Wilmington (N.C.) Morning Star, Sept. 15, 1967]

#### THE RIGHT OF PRIVACY

If ever an individual member of the Congress deserved credit for almost single-handedly protecting the privacy of the American citizen it must go to North Carolina's Sen. Sam J. Ervin, Jr.

For months and years Sen. Ervin has been campaigning against the "Big Brother Is Watching You" technique so vividly related by George Orwell in the frightening book, "1984".

Success came at long last for Sen. Ervin Wednesday when the U.S. Senate voted 79 to 4 to keep Uncle Sam's nose out of the private lives of federal employees. The legislation would prevent applicants for government jobs from having to undergo questioning about sex, religion and personal relationships. The bill now goes to the House.

The North Carolina Democrat was forced to go along with partial exemptions in the

case of the CIA, the National Security Agency and the FBI, which will be permitted to use lie detectors and psychological tests during job interviews. No one can have much quarrel with this compromise in such sensitive areas.

During recent years, the invasion of privacy of the American citizens has grown to irritating proportions. His eating habits, his drinking habits, whether he's happily married, where was he on the night of July 3, 1953—all of these absurd queries are hurled at him at some time during his daily existence. He is even harried on the telephone as to his personal habits.

Sen. Ervin, under considerable adverse pressure from federal agencies, has just about won the good fight as a starter. It is to be hoped that the House goes along with the Senate and that President Johnson signs the measure into law.

[From the Washington (D.C.) Post, Sept. 16, 1967]

#### OFFICIAL PRURIENCE

Those who defend intrusive and intimate questions regarding the private sexual lives of Government employes and job applicants argue that such interrogation reveals much that may help protect national security. Perhaps they do not quite realize how much they reveal about themselves. Probing the privacy of young men and women who want to work for their country may gratify arcane needs of the probers and may provide amusing material for coffee-break and cocktail conversation; but it has by no means been demonstrated that it has any utility whatever for judging fitness or reliability for Government employment.

Effective recruiting is a vital element of national security. A civil service that can enlist the best graduates of the Nation's colleges can contribute a great deal to national strength. But of course able men and women want to work for agencies that treat them fairly and with dignity and that respect their fundamental rights. Some of the questions asked of job applicants by so-called security agencies—Senator Sam Ervin gave a number of disgusting examples in the course of Wednesday's Senate debate on his bill to protect the privacy of Federal employes—are as pointless as they are prurient. They not only serve no purpose in screening the unfit; they outrage the healthy and make the Federal service repugnant to them.

The Senate passed Senator Ervin's bill overwhelmingly on Wednesday as, indeed, it should have done. But it adopted exemptions for the Central Intelligence Agency, the National Security Agency and the Federal Bureau of Investigation. It is a reflection on these agencies that they should want to be exempted. It is a reflection on the judgment of the first two—the FBI has long since learned better—that they want to place reliance in judging the candor of persons under investigation on those discredited instruments of contemporary witchcraft, lie detectors. It is currently fashionable to dress the lie detector up under the more hifalutin name of "polygraph"; but by any name it would be more sensible to rely on reading the entrails of sheep.

The House has important work to do on Senator Ervin's praiseworthy bill. It ought to make its old-fashioned American decency applicable to every agency of the American Government.

[From the Christian Science Monitor, Sept. 18, 1967]

#### TO PROTECT THEIR PRIVACY

Government workers and job applicants have been asked by federal agencies all sorts of questions about their private lives and opinions—their religion and religious beliefs, race, national origin, family relationships, sexual matters, finances, and outside activities.

Sen. Sam J. Ervin, Jr. (D), of North Carolina, along with 54 bipartisan cosponsors, introduced legislation forbidding government agencies to require or request current or prospective federal employees to disclose this kind of information about their private lives.

Senator Ervin and his subcommittee on constitutional rights had previously heard extensive testimony complaining that federal government personnel procedures violated personal privacy. They concluded that government has been gathering and filing personal information much of which has little or nothing to do with a person's ability or qualifications.

The bill, soon due for Senate floor debate, exempts from its provisions only employees of the Federal Bureau of Investigation. It makes special provision for the Central Intelligence Agency and the National Security Agency, but these are both seeking the same status as the FBI.

With technical advances making it much easier to gather, store, and widely disseminate personnel information, it is all the more important that Congress pass this "bill of rights for federal employees." The rights which this bill would protect are implicit in the Constitution of the United States.

But specific legislation is needed to erase any doubt whether a man, by accepting employment with the federal government, thereby bargains away these rights. Some government agencies, judging by their questionnaires and their psychological and polygraph tests, have apparently assumed that he does. Passage of this legislation will make it plain that he does not.

Senator Ervin put it more dramatically when he declared that this bill is based on the premise "that a man who works for the federal government sells his services, not his soul."

[From the St. Louis (Mo.) Post-Dispatch, Sept. 21, 1967]

#### A MEASURE OF PRIVACY

Though the President and Supreme Court have often spoken out against invasions of personal privacy, the leading invader of privacy for some years has been the Federal Government itself. To make the Government set a better example, the Senate has now passed by 79 to 4 a measure meant to uphold constitutional rights of federal employes.

If the overwhelming Senate vote is not enough to suggest the need for such a bill, results of a long investigation by a Senate subcommittee should prove it. For example, the Senators found that one woman applying for a Foreign Service job was asked to "answer quickly and without any thinking or deliberation" whether these statements are true or false: I believe in a life hereafter. I read the Bible several times a week. My sex life is satisfactory. Evil spirits possess me at times.

An 18-year-old college girl told the Senators she had thought working for the State Department one summer might be fun, until a departmental interrogator began asking her personal questions about her relations with a boy friend. She lost interest in a federal job.

Such intimate questions about family relationships, sex, religion and personal habits (even dreams) were a familiar part of what officials termed "psychological testing," involving both questionnaires and use of polygraphs, the so-called lie detectors. The subcommittee found that 16 federal agencies had hired 633 polygraph examiners, though it also heard expert testimony that polygraph results were not reliable. The FBI does not use them.

Of course, federal officials defended psychological testing on various grounds: national security, determination of fitness of employes, even the need to provide medical or other aid for employes. The diverse de-

fenses did not make much sense. Senator Sam Ervin of North Carolina, subcommittee chairman, said the tests were both "useless and offensive." "If the security of the United States rests on these devices," he added, "we are indeed pitifully insecure."

But the invasion of privacy of government employes does not stop there. The subcommittee also heard of coercion against them to buy bonds, to take part in some outside activities and to avoid others, and to conduct any public writing or speaking according to some official's preconceived rules.

To make matters worse, this infernal meddling in private lives was not restricted to so-called security agencies, but was spread throughout the bureaucracy. Nor was there any relation between security and the granting of such elementary protection as a right to counsel in hearings; the Defense Department allowed counsel but, until recently, the Civil Service Commission did not.

As passed by the Senate, Senator Ervin's bill is aimed specifically at all these malpractices, exempting only the three major intelligence agencies: the CIA, NSA and FBI. The military is covered by its own rules.

For other federal departments, the bill prohibits bureaucratic demands that employes disclose their race, religion or national origin or take psychological or polygraph tests involving family, sex and religion. The measure bars demands that employes engage in outside activities or report those of a voluntary nature. It prohibits coercion as to charitable gifts and bonds and in political matters. It also requires the right to counsel in disciplinary hearings.

Senator Ervin deserves a great deal of credit for disclosing the Big Brotherly operations of government and proposing to put an end to them. As a practical matter, such invasions of a citizen's rights, innermost thoughts and beliefs can only discourage sound federal employment practices. But the principle involved is far more important.

The principle is the Constitutional one of protecting private thoughts from intrusion. When the Government itself assumes the privileges of keyhole aristocracy it should, as Senator Ervin said, "disturb every American who takes pride in his government." We hope the House will be as disturbed as the Senate proved to be.

[From the Charlotte (N.C.) Observer, Sept. 14, 1967]

ERVIN'S PRIVACY BILL PASSES—WITH CIA IN IT  
(By James K. Batten)

WASHINGTON.—The Central Intelligence Agency lost its battle to be exempted from Sen. Sam Ervin's "bill of rights" for government employes Wednesday as the Senate approved the bill, 79 to 4.

Ervin called the vote "a great victory for human rights and human dignity." But Senate defenders of the CIA warned that the bill could hamper U.S. intelligence efforts all over the world.

Most of the four-hour debate centered on the use of lie-detector and psychological tests to screen out homosexuals and other undesirables applying for jobs with the CIA and the National Security Agency. The Ervin bill would sharply limit the use of such tests.

Sen. Henry M. Jackson, D-Wash., a member of the Senate's CIA watchdog committee, claimed that more than 10 "definite security risks" were screened out by the CIA last year after other methods failed to identify them.

Ervin remarked that two cryptographers who worked for the National Security Agency, William H. Martin and Vernon F. Mitchell, both had passed lie-detector tests before they defected to Russia in 1960.

"A man that will believe in polygraph tests will believe in witchcraft," Ervin declared.

The question of exempting the CIA and the NSA from the Ervin bill never came to a showdown, reportedly because a nose count convinced Jackson, Sen. John Stennis, D-

Miss., and Sen. Richard B. Russell, D-Ga., that they would lose.

Stennis and his allies stayed in close touch with the CIA and NSA throughout the afternoon's debate. At least four agents from the CIA and the NSA watched the proceedings from the gallery, ducking out frequently to confer with strategists in the cloakrooms below.

The CIA, particularly, had fought hard to escape coverage by the bill. Just before the Labor Day recess, the Ervin bill was pulled off the Senate agenda on short notice in response to CIA request for time to plead its case.

CIA Director Richard Helms and other agents visited a number of senators shortly thereafter, insisting that the bill would cause serious problems for the super-secret intelligence agency. But apparently their efforts failed to sway the Senate majority.

Ervin did yield on one point in Wednesday's debate, and there were varying interpretations of its importance.

The N.C. Democrat agreed to an amendment permitting the directors of the CIA and the NSA to designate officials within their agencies to decide when special circumstances dictated use of otherwise forbidden questions on lie-detector and psychological tests.

Ervin originally urged the Judiciary Committee to require CIA and NSA, like all other government agencies, to abstain from asking employes and job applicants questions about sex, religion, or family relations in the course of lie-detector or psychological tests.

But the committee voted, instead, to permit such questioning when the direction of the agency personally determined that it was necessary to protect the national security.

On the floor Wednesday, Ervin agreed to permit an agency director to delegate such decisions to "his designee," if he wished. Whether such language would permit CIA and NSA to continue as they have in the past was not immediately clear.

Prospects for House action on the bill this year are uncertain.

In general, the Ervin bill is designed to safeguard the privacy of government employes from unwarranted intrusions by their superiors.

Among other things, the bill would forbid requirement that employes buy savings bonds, make certain charitable contributions, attend off-duty meetings and report on personal activities unrelated to their jobs.

"There is nothing in this bill which will handicap the CIA or NSA in protecting America against enemies of America," Ervin told the Senate. "All this bill does is try to make them have a proper respect for the rights of privacy of their employes."

[From the Nation, Sept. 25, 1967]  
House of Spooks

Critics of the Central Intelligence Agency have for years said that that house of spooks is nutty; but for the most part such things were said in the spirit of hyperbole. Now it appears that perhaps they were right in this: the CIA does in fact appear to be run by kooks.

Assuming that an organization's sanity can be tested by the manner in which it hires and fires its employes, consider this evidence of mental aberration: The CIA uses handwriting analysis (according to *The Wall Street Journal*) to test the character and personality traits of job applicants. This is scarcely a scientific or even a common-sense test, of course, but that doesn't seem to bother the men who run the CIA.

More recently Sen. Sam Ervin of North Carolina came up with the fascinating information that at least as late as 1963 the CIA was financing the development of a "wiggly seat," a sly kind of lie detector. The job applicant would be seated in a plain-looking chair during his interview; but un-

beknownst to him, the specially equipped seat would be recording his pulse, adrenalin flow, respiration and skin dampness. It is not known whether the wiggly seat has ever been put into service.

What is known is that the CIA is using its battery of ordinary lie-detector machines with a mindless fury. Senator Ervin has learned, through his own sources within the spy agency (its top officials will no longer talk with him) that more than 5,000 lie tests were administered on both employes and would-be employes during the last year, and only thirty for counterintelligence purposes.

Because of his psychotic affection for the machine, CIA Director Richard Helms is frantically determined that Congress shall not include his agency under the pending bill to outlaw lie-detector tests and to prohibit any government agency from asking a job applicant such things as whether he ever had sexual relations with an animal, whether he slept with his wife before marriage, whether he urinates more than other people, or whether he believes in the Second Coming. Helms has lobbied furiously in the Senate to keep the privilege of asking CIA workers questions of this sort, and he will undoubtedly now go to work on the House to defend his bureaucratic voyeurism.

He is especially interested in having the right to use the lie detector to hunt for homosexuals. But the reason is not clear. Does he wish to get rid of them as security risks? Or does he want to recruit them as agents? The latter is rumored and the rumor has been published, even in the highly responsible *Christian Science Monitor*. Helms has not denied the published rumors. Senator Ervin—certainly no defender of Helms—feels, however, that not even the CIA is that dumb. But even assuming the CIA wants to use the lie detector to weed out homosexuals, this makes little sense.

In one of the closed sessions of the Senate subcommittee considering Ervin's bill, Sen. Birch Bayh of Indiana, a close friend of Helms, argued with Ervin: "Sam, if the Russians find a queer on the CIA payroll, they can intimidate him and put him to their own service." To which Ervin responded tiredly: "Yeah? And how are the Russians going to find him—with a lie detector?"

But logic, as Ervin has discovered, isn't the best of weapons to use in fighting for legislation.

[From the Pittsburgh (Pa) Press, Sept. 23, 1967]

#### PRIVACY FOR GOVERNMENT EMPLOYEES

Largely through the long effort of Sen. Sam J. Ervin of North Carolina, the Senate has passed and sent to the House a bill designed to protect Government employes from unnecessary invasions of their privacy by zealous superiors or other official stuffed shirts.

In view of the evidence uncovered by a Senate committee, the bill not only is badly needed but long overdue. And it is a disgusting reflection on the petty-minded Government officials who not only tolerated this nonsense but promoted it.

In support of the bill, Sen Roman Hruska of Nebraska said employes had been coerced into revealing highly personal information, forced to account for off-duty hours and compelled to donate time and money to assorted projects—among other things. Some of the intimate questions asked of job applicants were outrageous.

As passed by the Senate the bill attempts to outlaw such practices as requiring employes to attend lectures or take part in activities unrelated to their jobs, quizzing them about religious beliefs or sexual attitudes, forcing them to attend political meetings, or to buy bonds or contribute to charities.

In short, it is a sweeping bill to do away with "big brotherism."

The Senate action is proper and the same protection eventually should be provided all

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citizens who are increasingly subjected to prying, irrelevant questions from nib-noses in and out of Government.

[From the Chicago (Ill.) Sentinel, Sept. 21, 1967]

**GOVERNMENT STALLING ACTION ON BILL BANNING DISCLOSURE OF APPLICANT'S RELIGION**  
(By Milton Friedman)

The Administration is seeking to stall action by the House on the Senate-approved "Bill of Rights" for Federal employees that would forbid Government agencies from requiring job applicants to disclose their religious background, national origin or race. The bill also prohibits lie detector and psychological tests to force disclosure of other personal data. It protects individuals from other forms of coercion and invasions of privacy.

Five huge filing cabinets in the office of the Constitutional Rights Subcommittee of the Senate Judiciary Committee are bulging with complaints. Some of the complainants told how the Government required them to answer "true" or "false" to such questions as "Christ performed miracles." . . . "I go to church almost every week." . . . "I believe in the second coming of Christ."

Subcommittee chairman Sam Ervin, Jr., North Carolina Democrat, felt that the Government had no right to force answers to such inquiries. He said that "anyone who wishes to understand what intrusion of privacy really means can find out by applying for a Government job."

**PRESERVATION OF FREEDOM**

Sen. Ervin and the 78 other Senators who voted for his bill, S. 1035, were concerned about the preservation of individual freedom in an age of computers and scientific technology. They noted not only the bold probing of religious beliefs under the guise of security requirements but also probes into philanthropic practices and even sexual behavior.

Pressure by the Administration forced the exemption from the protection of the bill the two agencies concerned with overseas sleuthing—the Central Intelligence Agency and the National Security Agency. Sen. Ervin told the Senate he did not favor even these exemptions.

The FBI was given the same authority provided the CIA and NSA. However, the FBI said it did not use the objectionable testing methods on its employees.

Sen. Ervin said that his own research as subcommittee chairman convinced him that polygraph machines (lie detectors) "are totally unreliable for any purpose." He said that "if the security of the United States rests on these devices, we are indeed pitifully insecure. Fortunately, it does not, for the FBI does not use these examinations."

"But even if it could be shown that psychological tests and polygraph tests have mystical powers and can be used to predict behavior or divine the truth, I would still oppose their being used to probe the religious beliefs, family relationships, or sexual attitudes of American citizens," said the Senator.

An exemption was made for questions concerning national origin where the information is needed for security purposes involving overseas assignments.

Under the pending legislation, Government officials found guilty of violating employees' rights could be suspended or fired. A three-member bipartisan board of employee rights would be created to police the program. The board would hear cases and make regular reports to Congress.

Although the watered-down bill passed the Senate by a vote of 79 to 4, it faces an uncertain future in the House. The Administration is expected to seek further modification. An attempt will be made to stall action.

Government officials contend that there are already enough Administrative regulations to safeguard employee rights.

[From the Washington (D.C.) Daily News, Sept. 21, 1967]

**PRIVACY BY STATUTE**

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In view of the evidence uncovered by the Senate committee, the bill not only is badly needed but long overdue. And it is a disgusting reflection on the petty-minded Government officials who not only tolerated this nonsense but promoted it.

In support of the bill, Sen. Roman Hruska of Nebraska said employees had been coerced into revealing highly personal information, forced to account for off-duty hours and compelled to donate time and money to assorted projects—among other things. Some of the intimate questions asked of job applicants were outrageous.

As passed by the Senate the bill attempts to outlaw such practices as requiring employees to attend lectures or take part in activities unrelated to their jobs, prying them about religious beliefs or sexual attitudes, forcing them to attend political meetings, or to buy bonds or contribute to charities.

In short, it is a sweeping bill to do away with "big brotherism."

We applaud the Senate action and hope the same protection eventually will be provided all citizens who are increasingly subjected to prying, irrelevant questions from nib-noses in and out of government.

[From Newsday, Sept. 20, 1967]

**SENATE PULLS PLUG ON LIE DETECTOR**

(By Clayton Fritchey)

WASHINGTON.—It's hard to say what will finally become of the Senate's new proclamation of privacy for federal employees, because the bill has yet to pass the House, but come what may it has dealt the polygraph machine (lie detector) a withering blow.

Hopefully, the legislation ultimately will protect federal workers from all kinds of prying into the most intimate recesses of their private lives. Even if it falls short of this, however, it has speeded the end of the polygraph, which has been used so indiscriminately in government hiring and firing.

During the Senate hearings, the testimony against the lie detector, both as to its abuse and unreliability, was so devastating that its further use, outside of government as well as in, will undoubtedly be curtailed, irrespective of whether the House approves the Senate bill or not.

Federal discontinuance is certain to accelerate a similar trend at the state and local levels. A number of states, in fact, have already adopted statutes comparable to the one in Massachusetts, which says, "No employer shall require or subject any employee to any lie detector test as a condition of employment or continued employment." Oregon, Rhode Island, and Hawaii have similar proscriptions. More are on the way.

It is reported that no court in the land, state or federal, will now permit a polygraph test to be admitted in evidence. The reason for this, according to Sen. Sam J. Ervin (D-N.C.), a former judge, is that "the machine is of the most dubious value." It cannot interpret itself, he points out, "but must be interpreted by an operator. The machine merely measures physiological reactions as blood pressure, the pumping of adrenalin by the adrenal glands into the blood stream, and the like, as a result of excitement and stimulation."

While presiding over a murder trial, the former judge said, he had given "close study" to polygraph tests when the prosecution tried to introduce them as evidence. "I came to the conclusion," he says, "that a brazen liar can pass a polygraph test without any difficulty

but that a nervous or excitable individual, or an individual who resents being insulted, no matter how truthful he may be, is not likely to do so."

This view is supported by the Warren Commission, which said, "In evaluating the polygraph, due consideration must be given to the fact that a physiological response may be caused by factors other than deception, such as fear, anxiety, neurosis, dislike, and other emotions. There are no valid statistics as to the reliability of the polygraph."

The new Senate bill specifically exempts the FBI, but FBI Director J. Edgar Hoover is already on record against the polygraph for personnel purposes. Labor unions are also beginning to protest against their use.

The AF-CIO Executive Council has "deplored" them "not only because their claims to reliability are dubious, but because they infringe on the fundamental rights of American citizens to personal privacy. Neither the government nor private employers should be permitted to engage in this sort of police state surveillance of the lives of individual citizens."

Only the CIA and the National Security Agency resisted the Senate legislation, which prompted Sen. Roman Hruska (R-Neb.) to accuse them of being the "greatest transgressors" in using the polygraph. "What they want," said Ervin, "is to stand above the law."

The U.S. Civil Service Commission, on the other hand, has been showing a growing respect for the private lives of federal employees. It has just quietly, but efficiently, reprimanded one of its investigators for "improperly" inquiring into a report that an applicant had borne a child out of a wedlock.

[From the Washington (D.C.) Daily News, September 15, 1967]

**U.S. EMPLOYEES' BILL OF RIGHTS**

The "bill of rights" Federal employees, passed Wednesday by the Senate by a vote of 79 to 4, was sponsored by Sen. Sam Ervin (D., N.C.) and 54 other senators. We felicitate all of them, sponsors and those who joined in voting for the measure.

The bill would prohibit many forms of coercion which have been practiced upon Federal employees, and, further, would protect them against many indefensible forms of invasion of their privacy.

An amendment gives FBI, CIA and NSA special rights to make apply certain tests to employees for security reasons, which is only proper and wise.

Now the bill goes to the House where further action probably will be delayed until next year. We deplore this and wish that the whole legislative bundle could have been wrapped up right now. However, a fine start has been made toward assuring Federal employees their rightful dignity, and we hope that the bill rides into law before too long.

[From the Charlotte (N.C.) News, Sept. 2, 1967]

**A CIA ABOVE THE LAW**

The more there is to say about the Central Intelligence Agency, apparently, the less there is to say for it. The spy guys scare you when you can't see them but it's much worse when you can.

First, the CIA refused to appear in hearings on a Sam Ervin-sponsored bill that would limit the agency's blanket rights to pry into the lives of its employees. Then it announced it would be glad to take part in a—you guessed it—secret hearing before the Judiciary Committee. Then Richard Helms, the new CIA chief, got busy and managed to have the Ervin bill removed from the Senate agenda.

The performance prompted Senator Ervin to make public a blistering memorandum he had sent to other Judiciary Committee members accusing the CIA of trying to stand above the law and of active and illegal lob-

bying in Congress. He read the appropriate federal law forbidding agencies of the government from attempting to influence the passage or defeat of legislation before Congress and suggested that the CIA might leave its lie detectors long enough to investigate whether this statute has been violated.

An investigation of some sort definitely is called for. It is no light matter when government agencies begin bullying Congress or trading off favors for preferential treatment. The applicable law in this case is vital to protect government from the paralyzing grip of an all-powerful bureaucracy. If this matter is allowed to drop without further comment, Congress will serve notice that the CIA is indeed above the law.

[From the Knoxville (Tonn.) News Sentinel, Aug. 30, 1967]

#### CIA ROCKS BOAT

(By Marshall McNeil)

WASHINGTON.—The Central Intelligence Agency wants its spies to be left out in the cold.

It is asking the Senate for exemption from terms of the proposed "bill of rights" to protect Federal Government employees from uninhibited grilling about intimate details of their family relations, sex life and religion.

The CIA request has caused the leadership to delay until next month debate on the "bill of rights," a measure co-sponsored by 50 senators and recommended by the Judiciary Committee.

Thus CIA, swathed in the secrecy said to be so essential to success in the shadowy crafts of spies and counterespies, has stirred up another public fuss, plus the ire of that eloquent old parliamentary battler, Sen. Sam Ervin (D-N.C.).

And the threat has been made that if CIA persists in its request, in which it is joined by that other supersecret bureau, the National Security Agency, both may endanger the partial exemptions already written into the bill for them.

There are some who think that if CIA ever is compromised, it may have only itself to blame.

#### USE LIE DETECTORS

The courtly Ervin discovered some time ago that to get a Federal job some young applicants were required to take lie-detector tests and answer such questions as: "When was the first time you had sexual relations with a woman? Have you ever engaged in homosexual activities? . . . Did you have intercourse with (your wife) before you were married? How many times?"

The bill product of long hearings by Ervin's Constitutional Rights subcommittee, would put an end to such questioning. It would also prohibit:

Indiscriminate requirements that employees and applicants for Government employment disclose their race, religion or national origin; participation in outside activities unrelated to their employment; reports on their outside activities; or support of political candidates.

It would make it illegal to coerce an employe to buy bonds or make charitable contributions or to require him to disclose his personal assets, liabilities or expenditures or those of any member of his family unless such items would tend to show a conflict of interests.

"Why," asked Ervin, "do these two agencies want the license to coerce their employes to contribute to charity and to buy bonds? Do they not know how to evaluate a secretary for employment without asking for . . . if she loved her mother, if she goes to church every week, if she believes in God, if she believes in the second coming of Christ, if her sex life is satisfactory . . . what she dreams about, and many other extraneous matters?"

#### SELF SERVICES

Moreover, Ervin said, the bill already allows CIA and NSA to use lie-detector or psychological tests to elicit information from an employe or applicant on his personal relations with any person connected with him by blood or marriage, his religious beliefs, or his attitude or conduct with respect to sexual matters. The only requirement is that before such questions can be asked, the directors of CIA and NSA must make a personal finding that such a test is required to protect the national security.

Ervin said he was furnished a 10-page statement by CIA about things it objected to in the bill, but—wouldn't you know!—the statement was marked "Secret." He said in response to it he changed the bill to meet what he regarded as every relevant complaint.

"The idea that any Government agency is entitled to the 'total man' and to knowledge and control of all the details of his personal and community life unrelated to his employment of law enforcement is more appropriate for totalitarian countries than for a society of free men," Ervin said.

"The basic premise of (the 'bill of rights') is that a man who works for the Federal Government sell his services, not his soul."

[From Federal Employees' News Digest, Sept. 25, 1967]

#### BILL OF RIGHTS SNAG

(By Joseph Young)

The House appears in no hurry to take action on the Senate-approved "bill of rights" for government employes.

Rep. David Henderson, D-N.C., chairman of the House Civil Service Manpower subcommittee to which the Senate-okayed bill was referred, said his group has other legislation pending before it that will receive priority.

Henderson said he wanted to study the Senate-approved measure to protect government workers against unwarranted invasion of privacy before he decides what action, if any, to take.

"I guess you can't be against a bill such as this," Henderson said. "But I want to study it more thoroughly."

Indications point to Henderson's subcommittee preferring not to take action until next year. Since next year's session of Congress will be merely a continuation of this year, lack of House action this year would not kill the measure.

But Sen. Sam Ervin, D-N.C., chief Senate sponsor of the bill, is anxious to get final approval by Congress this year. Incidentally, Ervin deserves the great support and thanks of all federal and postal employees for his monumental efforts on their behalf. His name belongs in that small roster of the truly great champions in the history of Congress on behalf of government employes.

The administration is opposed to the measure as approved by the Senate and would like the House to either kill it or modify it drastically.

In the final analysis, it will be up to the federal and postal unions to bring pressure to bear on the Henderson group to hold hearings and take action on the Senate-approved bill. This the employee groups intend to do. They strongly favor the measure and feel its enactment into law is essential.

Individual employees can also help. Those living in the districts of the members of the subcommittee should contact their congressman and urge prompt hearings and action. The subcommittee members are Reps. David Henderson, N.C.; Charles Wilson, Calif.; Richard White, Tex.; Lee Hamilton, Tex.; Frank Brasco, N.Y.; H. R. Gross, Iowa; Edward Derwinski, Ill.; James Broyhill, N.C. Also, letters to Rep. Thaddeus Dulski, D-N.Y., chairman of the full House Civil Service Committee; and Robert Corbett, Pa., the group's ranking minority member, would be helpful.

[From the Birmingham (Ala.) Post-Herald, Sept. 21, 1967]

#### PRIVACY BY STATUTE

Largely through the long effort of Sen. Sam J. Ervin of North Carolina, the Senate has passed and sent to the House a bill designed to protect Government employees from unnecessary invasions of their privacy by zealous superiors or other official stuffed shirts.

In view of the evidence uncovered by a Senate committee, the bill not only is badly needed but long overdue. And it is a disgusting reflection on the petty-minded Government officials who not only tolerated this nonsense but promoted it.

In support of the bill, Sen. Roman Hruska of Nebraska said employes had been coerced into revealing highly personal information, forced to account for off-duty hours and compelled to donate time and money to assorted projects—among other things. Some of the intimate questions asked of job applicants were outrageous.

As passed by the Senate the bill attempts to outlaw such practices as requiring employes to attend lectures or take part in activities unrelated to their jobs, quizzing them about religious beliefs or sexual attitudes, forcing them to attend political meetings, or to buy bonds or contribute to charities.

In short, it is a sweeping bill to do away with "big brotherism."

We applaud the Senate action and hope the same protection eventually will be provided all citizens who are increasingly subjected to prying, irrelevant questions from nib-noses in and out of Government.