# Chronological: San Francisco Consortium American Forum 3rd Symposium

# news from
# Senator DANIEL K. INOUYE

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Those early European settlers who first came to our Nation's shores did so for many reasons. Among the most prominent was the desire for freedom from religious and political persecution. The search for "freedom" -- freedom to begin a new life as first class citizens -- as equals in a new society -- spawned the birth of [illegible] and the world's first major experiment in self-government. The practice of equating life in America with the elusive goal of freedom is older than our nation. It stirred those who came to live in colonial America long before the days of our revolution.

When Thomas Jefferson wrote in the Declaration of Independence "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness . . .", he did not consider these words to be just political rhetoric. He wrote out of sincere conviction -- out of his study of philosophy and man -- out of the American experience. These words express the dream -- the vision of early America. That moving passage from the Declaration of Independence is most important because in a highly significant way it became the basis for our subsequent Constitution and our system of democracy.

During this Bicentennial Year, it is well that we review the quest for these rights which were enunciated so well by Jefferson. It is well that we review our progress in securing these God-given rights to all Americans -- rights basic to the American search for independence and to the establishment of our system of government.

I think that we should ask ourselves if the rights to life, liberty and the pursuit of happiness have been truly unalienable over the history of this

country -- up to today? Perhaps more importantly, we must ask "has freedom been expanded during the past 200 years and how secure are the rights of Americans today?"

It is ironic to remember that our nation was conceived by men who had experienced injustice, persecution, and sometimes prosecution for their beliefs. Yet, these same men who formulated our basic documents accepted the moral obscenity of slavery. I say moral obscenity for certainly the concept of slavery bore no relationship to the Jeffersonian formulation of our basic precepts.

Our very Constitution initially placed its stamp of approval on slavery. For almost one hundred years, the leaders of our nation resisted abolition. Even the Supreme Court placed its stamp of approval on the practice of slavery in the Dred-Scott decision. It finally took a terrible and costly Civil War to establish the basic principle that all men -- regardless of their race -- are born free and entitled to liberty, justice and equality of opportunities. For a nation founded on principles of freedom, it is sad that we were to be the last of the nations of European heritage to abolish slavery.

Unfortunately, the denial of rights to American Negroes did not end with the Civil War, nor were Blacks the only Americans to be denied these rights, for treatment of the American Indians is another example of rights denied that has continued into the 20th Century. Volumes have been written about the treaties made and broken -- all in the name of providing security for the white American settler.

Discrimination in our country based on race has denied ostensibly "unalienable rights" to Blacks, American Indians, and also to those of Asian descent. For example, during past years we established laws discriminating against the oriental -- against his right of entry into this land of the free on an equal basis, against his right to vote and his equal right to the ownership of land. When World War II exploded on December 7, 1941, our government for no good reason -- legal or military -- sent more than one hundred thousand Americans of Japanese birth or ancestry to concentration camps known as "relocation centers". The only reason for this heinous action was that those from their ancestrial home had bombed Pearl Harbor. Men of great political standing joined in support of this racist practice.

As a result of this particular denial of freedom, concerned Americans took the case to court and presented it to the highest court of our land. As some of you may be aware, the question of the constitutionality of that action was never determined. There is no question, however, but that in the popular mind it was legally justified at the time.

A decade later, another sad chapter in our history of intolerance occurred when Americans were harassed and intimidated for their political beliefs. This period is now known as the era of McCarthyism. McCarthyism meant the blacklisting of entertainers, academicians, writers and government workers on the basis of suspicions -- not proof -- about supposed sympathy for communism. People lived in fear of expressing their opinions to their friends and even to their families. During the bitter years of the early 1950s, Congress, with the support of both liberals and conservatives, enacted a measure authorizing the President to establish camps for dissenters potentially dangerous to the American government. This became the infamous Title II of the Internal Security Act which seemed to ratify the incarceration of Japanese-Americans during World War II. It took the undivided effort of the Japanese-Americans Citizens League and their supporters to finally get that provision removed from law in 1971.

Of course, no one in this audience needs to be reminded of the assaults on the freedoms of thousands of Americans by their government that were exposed during the Watergate investigations and more recently by the Congressional committees studying our intelligence community.

The Watergate Committee, on which I served, uncovered the infamous Huston plan documents that proved conclusively that President Nixon gave his approval to the use of illegal and unconstitutional burglaries, wiretaps, and mail covers for domestic intelligence. There is less than conclusive proof that the President withdrew his approval of these activities five days later, although that is what Richard Nixon claims.

What is beyond doubt, however, is that these unlawful activities have been used to spy on law-abiding citizens over many years, not only during five days.

Over the past decade, intelligence agencies of our government have conducted secret surveillance of thousands of Americans. This spying was not aimed solely at suspected criminals or persons suspected of engaging in espionage activities. Some of the persons singled out to be spied upon were chosen because of their political opinions.

Evidence exists that more than a quarter of a million American citizens were the subject of active surveillance and that hundreds of thousands more had information about their lawful political activities included in intelligence agency files.

Law-abiding Americans who engaged in lawful political activities that are supposed to be protected by the First Amendment to the Constitution were subjected to having their homes burglarized, their mail opened, and their phones tapped by the FBI and the CIA. These infringements upon citizens' liberties occurred because these citizens were known to disagree with their government about government policies.

When the Nixon White House had trouble getting adequate or quick action from executive agencies to harass those who were considered "political enemies", they created their own secret police force. The work of Tony Ulasewiez, Jack Caulfield, Donald Segretti, G. Gordon Liddy and E. Howard Hunt was designed to deny the Democratic Party of its right to choose its own nominee for the Presidency and to make the life of certain prominent Democrats miserable. Prostituting the Internal Revenue Service by having persons singled out for a tax audit based on political considerations certainly must be considered a despicable abuse of governmental power.

The disclosures of Watergate and the massive surveillance of our citizenry by the government would seem to be sufficient to arouse public outrage over the threat to personal liberties posed by an all-powerful executive. Although there have been thousands of words written and spoken in challenge to the concept of an "Imperial Presidency" by columnists, editors and politicians, I must say tonight that many Americans have not learned the lesson of Watergate. That lesson echoes the words of Madison in the 51st Federalist Paper, written in support of the Constitution. Madison, we remember, proclaimed:

> "If men were angels, no government would be necesary. If angels were to govern men, neither external nor internal controls would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed and in the next place oblige it to control itself."

Watergate showed that for too long we have emphasized expanding government's ability to control the governed and neglected to oblige government to control itself.

There is now a major piece of legislation before the Congress which gives evidence that the Executive Branch and many members of the legislative branch have yet to understand the danger in this imbalance. The bill I refer to is numbered S. 1 -- it is a massive, 750-page, administration sponsored bill intended to codify and reform the present hodge-podge of federal criminal statutes.

There are good reasons to reorganize our criminal code, to eliminate inconsistencies, to reevaluate whether particular crimes belong in the code and to clarify many questions that are now open to judicial interpretation. But to do these things at the expense of individual liberties and open government, as is the potential effect of S. 1, is not a wise or proper course.

The genesis of S. 1 reveals it to be the last legacy of Richard Nixon -- a legacy we must reject. For S. 1 stems from a long history. In 1966, a commission, headed by this State's former Governor Edmund G. (Pat) Brown, was created to study the code. Its report which was issued in 1971 consisted of a great many wise and worthy recommendations for changing our criminal code. President Nixon rejected the bulk of these recommendations and presented the Congress with an entirely different set of proposed reforms. Unfortunately, the Nixon proposals which are now contained in S. 1 fly in the face of our supposed commitment to freedom and liberty.

Let me be specific and pinpoint a few of the provisions of S. 1 that I find so objectionable.

One section of S. 1 would, if enacted, give government the authority to control the dissemination of almost all information concerning national defense and national security. It would do so by making it a crime for anyone inside the government to communicate defense-related information which has not been officially released by the government. It would also make it a crime for unauthorized persons outside of the government such as newsmen, broadcasters, publishers and private citizens to receive and disseminate this information.

This would assure that only the official version of events would be available to the public. The government would be able to operate behind a screen of secrecy. The vague clauses in S. 1 which define national defense and national security to include almost any of the activities of the Defense Department and the CIA would prevent the public from finding out about waste and mismanagement, never mind illegal or unconstitutional acts. Those journalists who work to uncover the truth or public servants who might feel compelled to make information about government wrong-doing public would risk going to jail. The government would have sweeping powers to use run away grand juries and blanket wiretaps to discover who may be talking to journalists and whom journalists may be listening to.

I cannot justify giving government the power to hide corruption, waste, mistakes and criminal acts in the area of national defense. I cannot condone giving government the power to silence its critics. After what we have learned about just how far afield of legitimate activities our agencies have gone in past years -- including secret bombing raids in neutral countries, assassination plots against foreign leaders, etc., of course, I could not support S. 1.

Another provision of this legislation would protect federal officials from criminal prosecution for illegal acts, if the officials believed "the conduct was required or authorized by law." So after committing a crime, an official could merely say I thought it was legal and he is off the hook. Had S. 1 become law before the Watergate trials, there might not have been any trials.

Also, S. 1 would go a long way toward denying citizens their right to protest. For example, demonstrations would be outlawed if they were

undertaken adjacent to a "temporary residence" of a president. Picketing of government buildings would be outlawed. The legal definition of sabotage would be broadened so widely that it could include public demonstrations against war or defense activities.

S. 1 cannot be accepted in its present form, and, perhaps, it cannot be amended sufficiently to become acceptable. S. 1, in its present form, poses a real threat to the freedoms that we must cherish.

Tonight, I have concentrated on the negative side of the ledger in regard to the fight to maintain our liberties. There are numerous examples on the positive side of that ledger that we can point to, especially in the field of civil rights and the expansion of opportunities for minorities. My concentration on the negative aspects stems from my concern that we might, in the desire to make our bicentennial celebrations a happy occasion, forget the need to work at protecting liberty.

What I have attempted to relate is a simple message. Although I believe that Thomas Jefferson was truly inspired -- almost divinely inspired -- when he wrote more than 200 years ago "we hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness," the men who have followed Mr. Jefferson have not always so perceived our national commitment. And we must forever be reminded that unless we secure those rights, ours cannot be truly a representative democracy.

The search for that equality, the search for that vision of democracy, is an on-going one. It is not too late to recognize that if we are to achieve those rights in full measure, we must fight for them, we must be forever vigilant. So in this Bicentennial Year, let us once again reaffirm our convictions and regenerate the inspiration on which our nation was founded. Let us recognize that hard work and vigilance are ever the price of liberty.

Had John F. Kennedy lived to deliver the address he had prepared for the afternoon of November 22, 1963, in Dallas, he would have spoken these words which should remind us of the need for vigilance in the defense of freedom. President Kennedy had written, "We in this country, in this generation are -- by destiny rather than choice -- the watchmen on the walls of world freedom."

Today, no less than 12 years ago, we face that challenge. We must first secure freedom at home, however, before we can be certain of our ability to export it.