Buffalo Law Review

Volume 1 | Number 1 Article 32

4-1-1951

Security, Loyalty and Science. By Walter Gellhorn.

Clyde W. Summers
University at Buffalo School of Law

SECURITY, LOYALTY AND SCIENCE. By Walter Gellhorn. Ithaca: Cornell University Press. 1950. Pp. 300. $3.00.

Modern warfare is fought with weapons of science. In our fear we seek to increase our own scientific arsenals and at the same time not to provide weapons for the enemy. We have created an elaborate structure of security regulations in an attempt to cast an iron curtan of secrecy around many areas of knowledge and to conceal many new discoveries which might be of value to any enemy in wartime. Professor Gellhorn, in this readable and well-documented book, has described with disturbing frankness the results of that effort, and has suggested changes which must be made if we are to survive as a free nation.

Although this book is written for the layman, it is a lawyer's study of legal devices created to meet a new and pressing problem. Therefore, it has pointed lessons for the lawyer — lessons so obvious but so often forgotten.

Professor Gellhorn first makes clear that laudable purposes do not make laws proper, for good motivation is no substitute for good sense. The lawyer in devising legal controls must fully understand the whole structure of activity which he is attempting to regulate — its institutional setting, its social patterns, and its technological methods. Otherwise his efforts may be self-defeating of not dangerous. The desire to keep sale valuable military secrets is praiseworthy, but the author reminds us that in the field of scientific research we can keep no secrets, for our discoveries can be duplicated by other countries. Continued advantage in science can be assured only by continued progress at a high rate; but that very progress has been stifled by over-cautious security regulations which ignore the needs of scientific procedures. To preserve secrecy scientists have been restricted in their free interchange of ideas and sharing of secrets, they have been barred from knowing important discoveries in other fields, have been kept in ignorance of critical information concerning their own work, and have been compelled to duplicate extensive research already performed by others. In the name of security embarrassing mistakes are concealed and unsound theories go uncriticized. Security becomes stagnation, for science withers under secrecy.

The network of secrecy rules further hinder important government research by unwittingly excluding those who are most needed. The most brilliant scientists are reluctant to work where free interchange of knowledge is blocked at every turn, creative minds shun the atmosphere of secrecy and suspicion, and young men hesitate to bury themselves in projects where they can obtain no recognition by publishing their findings. The author points out that in some areas even the basic education of potential scientists is barred because no adequate courses on such subjects as atomic physics or nuclear engineering can be taught without revealing classified information. As a result, government

laboratories go short-handed while the best scientific minds turn to the free areas of science.

Our pattern of control, created to maintain our supremacy, bears a melancholy resemblance to the pattern by which Germany in ten years lost her world leadership in scientific development. If we fail to realize that scientific secrets can not long be secure, and if we refused to recognize that secrecy can handicap us more than the enemy, the very rules made to provide security may pave our road to destruction.

The second important lesson for lawyers is that procedural safeguards are not a lawyer's luxury but a practical necessity. The elementary rights to know the charges, hear the evidence, and cross-examine the witnesses are essential to test the weight and worth of the evidnce. These basic safeguards which not only protect the accused from injustice but save the tribunal from error have been ignored in the name of security. Persons who work on secret projects or need access to classified material must be "cleared." They are first investigated by the FBI and the file thus collected is evaluated by security officers or boards. If clearance is denied to a new employee the matter is ended. No charges are stated, no hearing is held, and no appeal is possible. If clearance is withdrawn from an old employee, he can appeal and obtain a hearing, but he appeals against a closed file containing undisclosed evidence given by unspecified persons obtained by prosecution minded investigators. No wonder that men of unquestioned integrity such as Gordon Clapp, Chairman of the Tennessee Valley Authority, or Roger Baldwin, Director of the American Civil Liberties Union were declared to be poor security risks by such a procedure. The danger of poor procedure is directly proportionate to the vagueness of the facts to be determined. Where charges are of "disloyalty," "subversive associations," or "lack of integrity," the need for safeguards is multiplied a hundredfold. But it is here that they are most flagrantly denied.

The cost of poor procedure in security administration goes far beyond the individual injustice suffered. The nation also suffers, for it loses the services of valuable talent. The greatest loss is not in those who are denied clearance but in those who refuse to apply. Scientists who realize that they may be the innocent victim of malicious gossip or distorted facts reflected in a closed file will not risk a denial of clearance which can brand them for life and blight their whole career.

Fair procedure does not prevent the detection of spies, but bad procedure can work injustice, create a stifling air of fear, and drive away the very men most needed. Unless changes are made which will restore the essential safeguards of due process, the whole objective may be defeated.

The third lesson for lawyers is that infringements on freedom have a deadly contagion. Professor Gellhorn dramatically demonstrates that security

controls, unless closely confined within small isolated areas, disease all they touch. Secrecy has spread from atomic weapons and bacteriological warfare to new steel alloys and disinfectants. Clearance required of scientists working on secret data has been indiscriminately extended to laborers who have no contact with classified information. Universities operating research projects are darkened by the shroud of secrecy and must comb their faculties and students for "poor security risks." Industrial plants producing military equipment may be caught in the net and asked to discharge employees whose FBI dossiers create mild suspicion. Security regulations and their blood-brothers, the loyalty programs, first enforced to protect vital areas, now threaten to spread into every laboratory, every school, every factory, and every organization. The author makes clear the grave danger, that in the name of security we shall ourselves create the very garrison state from which we seek to be secure.

These three lessons are patently obvious to any lawyer or student of government. That they have been forgotten is a disturbing comment on the hysteria of our days. Professor Gellhorn, however, has not limited himself to pointing out these weaknesses in our present security system. He has recommended constructive changes which will keep secure the necessary secrets and yet maintain the freedom which is essential for our science and our culture. These recommendations reflect his thorough study of the special problems involved, his extensive knowledge of administrative procedures, and his deep devotion to democratic rights.

This book should be required reading for every lawyer, every scientist, every columnist and every Congressman. It is a penetrating study of one of the most pressing problems of our day. If we do not find a sound solution for that problem we shall lose both our scientific leadership and our freedom.

Clyde W. Summers

Associate Professor of Law
University of Buffalo.