

Lawfully Curbing The CIA

PN 3/24/74

A Commentary

By Nicholas von Hoffman

President Ford and Attorney General Levi are at work writing guidelines for crime, and at the other end of Pennsylvania Avenue, Congress is busy learning how to oversee it. Finding a lawful way to supervise lawlessness is the most apt description for the attempts currently being made to contain the CIA and the FBI.

Success for this endeavor is inherently impossible. There can be no adequate guidelines or oversight for the myriad of scummy activities that are clustered under the name of "covert

Poster

action." The worst of them, i.e. assassination, sabotage and incitement to revolution, are acts of war, and, under our system as it was originally contemplated, the power to declare war rests exclusively with Congress.

Nor can Congress constitutionally delegate the power to declare war to the President, the CIA or anybody else. But in fact the CIA does have that power, putting Congress in the ridiculous situation of trying to oversee the unlawful usurpation of its own functions.

Wholesale bribery, rigging other people's elections and the like aren't acts of war, but they are interference in other countries' domestic affairs. That also is unlawful under our law, where we have signed and ratified treaties prohibiting it, as is the case with South America.

While our officialdom debates how it will legitimate the illegitimate, the rest of us must understand that more is at stake than even CIA assassinations and FBI murders. These acts aren't the work of "rogue" agencies

See COMMENTARY, B5, Col. 3

Attempting to Curb the CIA... Lawfully

COMMENTARY, from B1

which must be "controlled." Nor can they be blamed on outstandingly immoral Presidents like Kennedy and Nixon.

What has happened is that we now have two governments. We have the visible one that we pay taxes to and kvetch about, and the dark government of the national security state. You may consider the first government awful, but it is more or less lawful, and it operates more or less as we learned it should in school.

The second is absolutely lawless and unlawful. It fails every test of legality. Although it spends billions of dollars, Congress itself doesn't even know when or how much money it's appropriating for it. There is no meaningful audit of funds, and the Pike Committee report, which CBS's Daniel Schorr made public for us, indicates massive theft and corruption in the CIA. Or are you silly enough to believe that when the CIA in one foreign city spends \$41,000 for liquor in one year they're fighting Communism? How does spending \$175,000 to furnish an office keep the Reds off our back? Is anybody seriously going to maintain that when the CIA uses

taxpayer money to produce pornographic movies, they're defending the the national security?

When this kind of evidence of graft and corruption piles up against the employees of the visible government, grand juries are empanelled, indictments are issued and citizens file taxpayer suits. None of that is possible with the various organs of the national security government. Even the rules they operate under, if there are any, are classified. Note that while prima facie causes of CIA and FBI crime against American citizens—forget foreigners—exist, all the perpetrators are beyond the reach of the laws of the visible government.

The same dual government systems obtains in the Soviet Union as it did in Nazi German, where the Gestapo seemed to have shared the same prurient interests as the CIA. Russia has a fine visible government with all kinds of laws and safeguards, but as Alexander Solzhenitsyn has reminded us, they're not binding on the KGB. Dual government is the common characteristic of the modern totalitarian state.

Be warned, and don't join the

thoughtless mob of auto-hypnotic patriots who want to punish men like Daniel Schorr because he's giving our secrets away to the enemy. If he's given any secrets away, they're things we can't do and still call ourselves Americans. Hitler and Mussolini used criminal gangs for their political purposes, but there is no way we can stretch our system to include a similar use of the Mafia.

One of the reasons CIA-FBI crimes have gotten so much publicity lately is that during the Nixon period some members of the country's ruling circles found themselves victims of the second government's lawlessness. They didn't mind when a job was done on foreigners or on a Martin Luther King Jr. They don't want it done on themselves and this debate over control and oversight is really grappling with an arrangement that will protect them but not the rest of us.

That can't be either. The German Capitalists found that with Hitler. Either we're all protected or none of us is. Nor can that protection be secured by circumscribing the area of lawlessness. There are some things a democracy can never, no not ever, do.

©1976, The Washington Post/King Features Syndicate Inc.