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No Right to Lie

THE FINAL DISPOSITION of the government's case against Richard Helms produced a firm judicial determination that public officials cannot be allowed, in Judge Barrington Parker's words, "to disobey and ignore the laws of our land because of some misguided notion and belief that there are earlier commitments and considerations that they must observe." But Mr. Helms quite obviously did not accept this view; once outside the courtroom, he reasserted, in effect, the rightness of his decision to put his prior secrecy oaths to the CIA above his obligations under the law. That is to say that while the issue was resolved insofar as the Helms case was concerned, it clearly was not resolved as a matter of principle in Mr. Helms's mind, and not in the minds of his supporters inside and outside of government. The public, in other words, was left to wonder in what fashion the conflict of allegiance that confronted Richard Helms in 1973, in an age of congressional permissiveness and slack oversight of the CIA, would be dealt with if it were to arise today. Indeed, the question was sharpened by the government prosecutor's acknowledgment that the rules were "fuzzy and unclear" four years ago and by Mr. Helms's suggestion that new rules need to be written now.

There are, we think, three things to be said about all this, and President Carter said the most important of them yesterday: "A public official does not have a right to lie." While that may sound obvious and incontestable, it had not been said before by the administration in this context, and we are glad to see it on the record as official policy. It is one thing to sympathize with the practical dilemma that confronted Mr. Helms under oath before Senate committees in 1973 and to understand his sense of responsibility at that time to his agency, to national security interests as he defined them and to what he believed was an overriding oath of secrecy. But it is quite another thing to elevate his decision to withhold the truth to the status of a "badge of honor" or a general principle.

The second point to be made is that the "Helms dilemma" has already been resolved in large part—there *are* new ground rules already in effect. They were laid down in President Ford's Executive Order 11905 of 1975 and confirmed in Senate Resolution 400, which set up a permanent intelligence oversight committee. These rules 1) require the executive branch to furnish Congress information on "all intelligence activities" and 2) provide a mechanism (in the first instance, the intelligence committees) for doing that. The new guidelines have effectively shredded both of the rationales that Mr. Helms invoked to justify his decision to throw the Senate off the trail of the CIA's covert activities in Chile. No longer can a CIA official claim that he is bound by an oath of secrecy not to inform Congress and no longer can an official claim that an appropriate, effective and secure channel for informing Congress does not exist. For its part, the Congress can no longer require a CIA official, let us say, to testify publicly on matters that have already been properly subjected to congressional oversight in executive session.

The final point is that there is more to be done: An important part of this overhaul of the arrangements between the Congress and the executive branch is apparently stalled on the President's desk. We are referring to the charters, or *legislative* mandates, now under preparation for all of the government's intelligence agencies. This collaborative effort by both branches of government grew out of the Senate investigation of the CIA and is intended to give the essential stature of law to the existing system of guidelines, which now has only the blessing of a Senate resolution. The legislation would put the guidelines in the most authoritative form in which national policy can be expressed. But work on the Senate's proposals is said to be nearly four months behind schedule, largely for lack of an administration response.

What is needed is for the President to resolve whatever differences there may be within the executive branch and propel the charters forward. Once that has been done, officials of the CIA and other intelligence agencies will have no reason to expect—nor the public to fear—that a failure to testify truthfully to Congress under oath will be seen as anything other than a violation of the law.