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Part 111/8/77

An 'Intrinsically Weak' Case Against Helms

The sermon today has to start with a confession. I have known and liked Dick Helms for a decade or more.

I do not believe my regard for him blinds me to his faults. I think I was among the first to point out—and in a highly critical way—that as director of the Central Intelligence Agency in June 1972 he had knowledge of the Watergate coverup that he did not divulge.

But the rest of the case against what Helms did in the Nixon years strikes me as small beer—the kind of thing that the law, under the doctrine of *de minimis non curat les*, usually ignores. That definitely includes the activities that generated the perjury charge that was compromised last week in a bargain with the Justice Department whereby Helms pleaded guilty to a misdemeanor and was fined \$2,000 and given a two-year suspended sentence.

The perjury charges related to covert actions carried out by the CIA in Chile between the election of Sept. 4, 1970, and the military coup that ousted the left-wing regime of Salvador Allende late in 1973. These operations were conducted under express order of the President and other designated authorities. There is no question that the agency and Helms were acting on their own.

Neither is there a serious issue of concealing from the Congress what was done. More than a decade before the Chilean events, the CIA had worked out with the Congress proceedings whereby covert actions were reported to specially established oversight committees but not to other committees of the Congress. All CIA covert actions in Chile were duly reported to the established oversight committees.

Helms's troubles grew out of testimony to two other committees after he had left the CIA to accept appointment as ambassador to Iran. One set of questions was posed by Sen. Frank Church (D-Idaho) of the multinational companies subcommittee on March 6, 1973. The record here is incomplete because much of the material was classified.

The other set of questions was posed by Sen. Stuart Symington (D-Mo.) on Feb. 7, 1973, in hearings of the Foreign Relations Committee on Helms's con-

firmation as ambassador. The Symington questions are generally cited as presenting, in ways far more specific than the Church questioning, the *prima facie* case of perjury.

Sen. Symington asked: "Did you try in the Central Intelligence Agency to overthrow the government of Chile?" Helms replied: "No, sir."

Symington then asked: "Did you have any money passed to the opponents of Allende?" Helms replied: "No, sir."

In fact the CIA did supply funds to keep democratic elements in Chile alive during the Allende regime. Whether that constitutes trying to overthrow the government is—to put it mildly—a hard question.

As to the passing of the money, Helms contends that he thought Symington was asking about giving funds to Allende's two opponents in the election, and in the runoff that was eventually decided by the Chilean congress. Though that possibility was explored, no money seems actually to have changed hands.

Moreover, the context supports Helms's interpretation of the question. After denying that the CIA passed the money, Helms said: "If the agency had really gotten behind the other candidates and spent a lot of money and so forth, the election might have come out differently."

The argument for bringing perjury charges is thus intrinsically weak. It rests chiefly on the doctrine of equality before the law—the principle that people in office should be treated just like anybody else.

But doesn't that doctrine apply very poorly to the head of an intelligence organization with a sworn duty to keep secrets? Isn't such an official in a very special category? Doesn't his responsibility not to divulge secrets to unauthorized people mitigate the offense of not coming totally clean with a congressional committee asking vague questions in regions outside its formal area of responsibility? Especially when the relevant information has been given to other committees?

My answer to those questions is yes. I do not think an official who spent 30 years honorably serving the American government should have been charged with perjury in such a murky case. I believe the investigation should have been cut off by the Ford administration or the Carter administration—with perhaps a formal opinion by the Attorney General indicating that the circumstances were special and would never apply in the future.

It is not surprising in these conditions that Helms told the judge who sentenced him that he was proud of his actions. James Schlesinger, the Energy Secretary who also headed the CIA, told Helms that he could consider the outcome an honor, to be borne as a kind of dueling scar. But who wielded the sabre? An ungrateful government, I believe, with men serving as President and Attorney General who lacked the courage to stand up to a Congress that didn't want its right hand to know what its left hand was doing.

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