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Bugged or Not Bugged

The Citizens' Fear Of the FBI Is Real

By Alan Barth

HOW nice it is for congressmen to have the Attorney General's categorical assurance that their telephones have never, never, never been tapped by the Federal Bureau of Investigation! Some of them, being notoriously cynical and remembering that there have been attorneys general whom the Director of the FBI didn't even speak to, let alone confide in, may be a little skeptical that the incumbent AG, a relative newcomer in the Department of Justice, is fully qualified to go bail for Mr. Hoover. But at least it must be a comfort to them to know that Mr. Mitchell regards them as belonging to a special category of untouchables.

Mr. Hoover himself looks upon members of Congress as sacred. The office of the Senate Minority Leader quoted the FBI Director as saying: "I want to make a positive assertion that there has never been a wiretap of a senator's phone or the phone of a member of Congress since I became director in 1925, nor has any member of the Congress or the Senate been under surveillance by the FBI."

But what, when you come to think about it—if you'll forgive the *chutzpah* in asking—is so special about congressmen? What about newsmen? Generally speaking, they are, as everybody acknowledges, a wonderful collection of fellows, engaged in a vital form of public service so important to the operation of the democratic process that the Constitution of the United States itself guarantees them a special grant of immunity from governmental intimidation or interference.

What about butchers and bakers, teachers and tailors? What about doctors, lawyers, merchant chiefs? Are they any less entitled to be free from FBI surveillance than the men and women they hire to represent them in the national legislature?

IT CANNOT be said that senators and representatives are an invariably law-abiding lot. At least one member of Congress, Rep. John Dowdy of Texas, is at this very moment under indictment for the acceptance of a bribe. Daniel Brewster of Maryland is charged with criminal misconduct while he was a sitting senator. A former congressman from New Jersey, J. Parnell Thomas, spent more time than he meant to in the federal penitentiary at Danbury, Conn., because he had taken "kickbacks" in violation of the law. The list is long and unlovely, and there is no sense in itemizing it here. The point is simply that members of Congress, like ordinary mortals, sometimes

misbehave; and to suggest that the FBI never takes a look at their behavior is to suggest that the FBI is playing some sort of footsie with the people who have the power of the purse. That is an insult to every congressman.

The trouble with the FBI is that it has become a sovereignty. It is, in a true sense of the term, irresponsible. It reports to no one, except, perhaps, in a formal way to a succession of attorneys general who have had no power to choose its director; in the course of his 47 years in the directorship, Mr. Hoover has seen no fewer than 16 attorneys general come and go, and it is safe to say that he is not much awed by them. No committee of Congress has presumed in all those years to demand a look at his dossiers in order to determine if they are really any good and if they really serve the public interest. Nobody really knows—on a basis that would qualify him to testify under oath—whom the FBI currently has under surveillance and whom it bugs and taps.

THE TRUTH—the appalling and terrible truth about J. Edgar Hoover and the FBI today—is that they are widely feared by honorable, patriotic and law-abiding citizens. Say that the fear is unjustified, say, as Mr. Mitchell has done, that it is paranoiac, say that it is altogether undeserved. Nevertheless, the fear is real. And it is altogether in consonant with the idea of a free country.

The fear grows in part out of Mr. Hoover's overlong tenure and unchecked power. What a personal tragedy it is for Mr. Hoover that he did not avert that fear by relinquishing his office voluntarily when he was at the pinnacle of his prestige.

The fear grows in part also out of the development of electronic eavesdropping techniques and computerized record storage.

It grows in no small part out of the Attorney General's arrogant assertion that he possesses power, acting in the name of the President, to tap or bug anyone, any time he regards it as "reasonable" to do so for the protection of internal security—and without bothering to pay deference to the Constitution by obtaining a judicial authorization in advance.

But most of all fear of the FBI and its director grows out of a widening realization that the bureau has under surveillance great numbers of Americans (outside of Congress) who have violated no law but whose political opinions and associations it deems dangerous.

This realization is based on FBI records which have lately come to light. It is true that they are stolen records. It is equally true that they were selected and distributed by enemies of the bureau. It may well be true, too, that they are not typical. But they are the only FBI records available to the public on which to base a judgment of the bureau's performance. And they indicate unmistakably that the bureau, in the name of protecting internal security, is hounding heterodoxy.

You can measure the prevalence and the virulence of this fear by the appalling fact that the House of Representatives of the U.S. Congress has retained an independent electronics firm to make periodic checks to discover hidden microphones in congressional office suites.

The fear itself is a disease more dangerous than "subversion." It paralyzes the interplay of political forces and ideas that makes the American system work.