

## Kennedy Justice

By Victor Navasky.  
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By JOSEPH KRAFT

When clear evidence of F.B.I. bugging emerged from a Las Vegas gambling case back in 1963, Attorney General Robert Kennedy moved to stop what he thought was all the bugging. He told Deputy Attorney General Nicholas Katzenbach to "make sure they're not doing any more of that." Katzenbach asked Courtney Evans, the F.B.I. liaison man, "Am I absolutely assured that this is stopped?" Evans replied "Yes, it's been stopped." But neither Kennedy nor Katzenbach ever specified precisely that the case-bugging order applied everywhere. Years later Katzenbach found out, as he told Victor Navasky, that the F.B.I. "did stop it but only in Las Vegas.

Detailed accounts like that make "Kennedy Justice" probably the best book ever done on the inner workings of a great department of American Government. It comes as close as seems humanly possible to an understanding of the relation between Robert Kennedy and J. Edgar Hoover. There is an abundance of new information on such portentous business as civil rights, crime, legislative reapportionment, the bugging of Martin Luther King and the getting of Jimmy Hoffa. The narrative, which is strong, and the judgment, which is fine, express Mr. Navasky's dual career as a journalist (working at The New York Times Magazine) and a lawyer (trained at Yale). And the whole evokes a theme of high speculative interest—the theme of how an elite can govern in a populist country.

Robert Kennedy was at the center of it all. As Attorney General, he was a leader who led, and as brother of the President, he had influence through government. His near-obsession with organized crime and his growing concern with civil rights were fused into the being of his department. He imparted to those who worked with him something of his own drive, nervous energy and confidence. "He had an inspirational quality that brought out the best in others." And not only on the top-most levels. "I wouldn't trade those days for anything," career secretary in the press office of the Justice Department told Navasky. "The tone of the Department," a woman lawyer in the office of the Solicitor General says, "reflected Bob's personality—

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sunshine and rain. We felt as if we were in the family in a way."

But if Navasky obviously admires Kennedy, his book, unlike Richard Harris's study of the Justice Department under Ramsey Clark, is not a good guys versus bad guys treatment. Here is a comment, indicative of both the balance and industry with which Navasky pursued sources, by a young man hired to act as a prosecutor in the Hoffa case:

"Some people say Kennedy was out to get Hoffa. Well let me tell you, they are 100 per cent right. When I was hired I knew I wasn't going to prosecute draft dodgers. And Bobby couldn't wait. He asked me when was the earliest I could report. I said two calendar months. He said be here Monday. I said I couldn't possibly. I had cases to clean up, work, obligations, family. . . . He said a week from Monday and that was that."

Kennedy balanced off the tough prosecutors with an elite corps of Deputy and Assistant Attorney Generals drawn from the leading law schools and downtown firms. They came not only from the Ivy League—a term overstressed by Mr. Navasky and too loosely used—they also shared a common outlook rooted in a very precise experience. All had achieved remarkably early success by quite conventional means. The first article of their faith was that with ingenuity and persistence, justice could be achieved within the system.

Ideologies, slogans and dogmas they saw as an obstacle to that end, something that clogged the mind, and fostered sham and even disaster. "If you know it, why do you have to write it?" Byron White, who was Kennedy's Deputy Attorney General before moving on to the Supreme Court, once asked me with a kind

Attorney General  
Robert F. Kennedy in his office  
and F.B.I. Director  
J. Edgar Hoover.



of wondrous awe at the quaint notion that somebody might want to be a journalist. And Nicholas Katzenbach, who succeeded White as Deputy before moving up to Attorney General under Lyndon Johnson, told Navasky: "The secret is not to be stuck on words. Words are the best thing to give away."

The operational code implicit in those attitudes was set forward, Navasky correctly senses, in the Gino Speranza lectures delivered at Columbia in 1963 by Burke Marshall who was then Assistant Attorney General for civil rights. Marshall proclaimed no new doctrine. Rather he took a look at the Federal system and came to the conclusion that even that least plausible of systems—even that crazy mixed-up collection of ramshackle incongruities—could be made to work.

Not by Ivy League lawyers alone, however. If the system was going to work it had to be made to work by practically everybody. That included the Congress, and especially the Southern Senators with their standing on the Judiciary Committee. It included the Democratic party and its big-city machines. It included the political, business and law enforcement apparatus of the Southern states. It included the Washington bureaucracy, and notably the Federal Bureau of Investigation.

Mr. Navasky's analysis of the F.B.I. is one of the outstanding fea-

tures of his book. Seeing the Bureau as a kind of secret society and bringing to bear the work in that field by the German sociologist Georg Simmel is a mark of his penetration and range. His description of the Justice Department at work is unique precisely because it examines in detail the relations between the top side of the department and the F.B.I.

But, perhaps because of his sensitivity—and perhaps also because the Bureau refused to cooperate with him in any way—Mr. Navasky seems to have a thing about the F.B.I. He reverts to Mr. Hoover and the Bureau over and over again, and the constant intrusions distort the proportion of his work. He ignores one area where the F.B.I. does not figure—antitrust activities. He concentrates in two fields where the F.B.I. has been important, and in each his measure of good and bad is the Bureau.

In the field of civil rights, Navasky finds that under Kennedy the Justice Department became "the center-of action." There was progress in voting rights and reapportionment; the integration of the Universities of Alabama and Mississippi; the conversion of "freedom rides" into orders against segregated travel; and the beginnings of the 1964 Civil Rights Bill. (Continued on Page 50)



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"Never has there been more energetic, improvisatory short-run activity." But force was not asserted on behalf of civil rights because the F.B.I. would not cooperate and political considerations militated against sending troops.

The second area intensely surveyed by Navasky is the fight on organized crime. He credits the Justice Department under Kennedy with undoubted accomplishments. It did get Jimmy Hoffa. Twenty-seven different agencies working in the field were unified.

The interest in fighting organized crime went hand in hand with a tolerant attitude toward such dubious procedures as bugging and wire-tapping. "Attorney General Robert Kennedy was, on balance, pro-wire-tapping."

sion that came to include ever Martin Luther King. "The Attorney General, whether he knew it or not, was a minority partner, a collaborator in the F.B.I.'s own electronic war. It was a classic case of not asking and not telling, but when the non-asker is the [Attorney] General and the not-teller is the Director [of the F.B.I.] the non-gainer is the public."

But the F.B.I. is part of the country too. It is, in fact, a fairly representative American institution. It has sympathetic affinities with most of the groups the Kennedy Justice Department needed to cultivate and conciliate—the Senate; the Southern political structure; the big-city machines. Like them it is anti-élite in its main thrust—a populist institution.

It was never in the cards that the Justice Department under Kennedy would rack up the F.B.I. and convert it into Nader's Raiders. The best it could hope for is what it achieved—a start of the procedures now coming to fruition whereby local authorities moved for school desegregation, reapportionment and higher performance in criminal justice.

For an élite imposes its values on a populist country only at the risk of grave reaction. And if there is reaction now—if violence is done in the name of law and order, if wire-tapping is the law of the land, if there is a Chief Justice of the Supreme Court who answers his door gun in hand—it is a reaction not to Kennedy Justice, but to what followed. ■

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