

Government's 'Black Bag' Jobs

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People seem to yearn for silver Watergate linings these days and to stretch pretty hard for them. But President Nixon may well have done the nation a good turn at his press conference last week when he opened up the whole question of burglaries in the national interest. From a strictly logical point of view, his statement did him very little good. Mr. Nixon, it will be remembered, claimed that "in the three Kennedy years and the three Johnson years through 1966 . . . burglarizing of this type did take place . . . it was authorized on a very large scale . . . and it was quite well known."

On its face, that seemed to be little more than an attempt to justify break-ins such as the one at Daniel Ellsberg's psychiatrist's office; and since the President, the White House and the Department of Justice declined to provide specifics, Mr. Nixon's argument appeared to fall flat. However, in the wake of the President's statement—and because of it—all sorts of information to which the public had not been privy about illegal activities carried out in the name of the nation's well-being has come to light—and for that we can be grateful.

The pattern of information on our government's black bag business over the years, though still far from complete, makes the intelligence plan that Mr. Nixon approved and then quickly rescinded in 1970 at J. Edgar Hoover's insistence more understandable, though no less reprehensible. The people now talking cautiously to newspapers say that the FBI began edging into the national security burglary business back in the late 1930s as the nation moved closer to World War II. The targets then, according to this information, were German and Japanese embassies, consulates and suspected spy rings, and the object of searches was information necessary to the survival of the United States.

But, the path from the German consulates in the late 1930s and the early 1940s to the office in Los Angeles where Dr. Lewis Fielding practiced psychiatry in 1971 is long and disquieting. From the wartime targets it runs (during the height of cold war anxieties) to the offices of the Communist Party and to homes of Communist Party leaders and suspected Communist spies. Then, in the 1960s and the 1970s it goes to the Ku Klux Klan, to labor racketeers, to organized crime, to Dr. Martin King Jr., thence to black and anti-war radicals and on to the psychiatrist's office.

The only common thread between the burglary of an enemy office in order to gain information to break a wartime code and the entry into Dr. Fielding's office to get information on Daniel Ellsberg is that 1) both were burglaries and 2) both were justified in the name of national security. The problem is that somewhere along the line a lot of people neglected to draw the line between what

constitutes a legitimate national security concern and what constitutes a blatant and mindless violation of the constitutional rights of an American citizen.

The trend is disquieting on two principal accounts. The first is that the American people are content—though at times uneasily so—to entrust to their leaders extraordinary powers to protect the nation against mortal dangers, primarily from abroad. Administrations assert such powers and by and large the people don't contest them because they care about their country and because they trust their leaders.

But the gift of trust imposes upon the leaders a very heavy burden of restraint. It is hard, on fragmentary evidence, to say by whom this trust has been abused in the past—a series of presidents, a series of attorneys general or just by J. Edgar Hoover or by a varying combination of them at various times. It is clear, however, that if the allegations concerning illegal actions against the Ku Klux Klan, labor racketeers, organized crime figures and a number of others on the list are true, then the trust has been abused. There are some on that list whom all would deplore as dangerous and/or undesirable citizens and some to whom certain segments of the population give unreserved adulation. What they have in common is that all were entitled, under the Constitution, to certain protections which their government seems blatantly to have ignored.

A second disquieting aspect of the matter is that it provides yet another example of technology and expertise getting out of control, if not actually running amok. Once the capacity to break and enter and to burgle and bug skillfully had been developed, there were always going to be pressures to use those skills. One does not expect the possessors of such skills necessarily to have the judgment or the constitutional sensitivity to determine when and when not to employ them. That is up to the highest elected and appointed officials in the land to do with the utmost discretion and restraint.

The emerging pattern seems to indicate that some of these officials over the years have failed to do that. Temporary and sometimes passionate judgments of whom the "bad guy" of the moment happened to be have governed policy rather than firm constitutional principles and strict definitions of national security. Mr. Nixon, in our view, drew precisely the wrong conclusions from all this: He seemed to cite the excesses of the past as justification for carrying the vague mandate to new and self-evidently insupportable lengths. But in the course of grossly distorting the national security argument, he helped bring to light the laxness with which our government's dirtier skills have been controlled. And in that respect he may well have done the nation a large service.