

Watergate: The Trial and the Senate *Post 1/15/73*

The Watergate burglary and all of the events and circumstances surrounding it—along with those uncovered as a result of it—are again at the top of the news. The trial of the five men arrested inside the Democratic National Committee headquarters and one of the men indicted with them—one other has already entered a guilty plea—is now under way. In his opening statement, the government's prosecutor, Earl Silbert, gave the jury a broad picture of what the government intends to prove at the trial and from his statement, we can glean something of what the trial will and will not do in terms of enlightening the public about the nature, extent, direction and financing of the enterprise of which the Watergate burglary was a part.

At the same time, the Senate Democrats have voted to initiate an investigation by a Senate committee into the whole matter and to ask Sen. Sam Ervin (D-N.C.) to head that effort. In our view, Mr. Silbert's opening statement underlines the wisdom of the course the Senate Democrats have taken. Mr. Silbert's task is to prove, if he can, the government's case against the remaining six defendants on the charges of breaking into the Democrats' headquarters to steal information and to conduct illegal eavesdropping and wiretapping. Understanding Mr. Silbert's statement to be only the government's assertion of what it believes it can prove and in no way attempting to make a judgment on the guilt or innocence of the men still on trial, that statement makes it quite clear both that there is a large public interest to be served in finding out all there is to know about the whole affair and that a criminal trial is not and should not be the place where that is attempted.

Essentially, Mr. Silbert told the jury that the government intends to prove the burglary, to prove a conspiracy to conduct espionage and intelligence operations directed at leading Democrats and to show the immediate financial arrangements supporting the occurrences which he has to prove in order to obtain a conviction. In describing how he intends to do that, Mr. Silbert has both shown some of the limits of the proof the government intends to offer and some strong leads into other issues which may not be pursued in the courtroom, but which are of vital importance to the public.

Two examples drawn from Mr. Silbert's statement will illuminate the point. He says, for example, that one of the defendants was authorized to draw \$250,000 for intelligence operations and that he did in fact draw \$235,000 in cash. The government can account for \$50,000, leaving \$185,000 unaccounted for. That raised again the large and sensitive question of money in politics and how to control it. Where did the money come from, for what purposes was it intended by its original donors, was it ever accounted for and if not, what needs to be done to the campaign financing laws to make sure that such sums are properly controlled and accounted for in the future?

Then there is the question of intelligence. The intelligence mission of one of the defendants was described as essentially defensive by Mr. Silbert—the collection of information about possible threats to the security of the President's campaign stand-ins and estimates of the size and nature of the demonstrations planned for the Republican national convention. These seem like unexceptional and prudent activities, but then the story slides into the placement of an agent in the Muskie and McGovern headquarters operating with a variety of intelligence missions including providing an opportunity for the placement of a bug in the office of one of Mr. McGovern's top advisers. During the campaign, such activities were described by some as a time honored and legitimate part of the political game. Are they? Should they be? How many people were there like young Mr. Gregory operating around the country influencing in an underhanded and silent way a decision that was purely the public's to make. If these activities aren't all illegal, should they be?

These and many other questions raised by Mr. Silbert's opening statement are appropriately outside the purview of a criminal trial, but they are fundamental to the operation of a free society. As Sen. Mansfield said in suggesting the investigation to Sen. Ervin, "The question is not political, it is constitutional. At stake is the continued vitality of the electoral process in the governmental structure of the nation." To that, we can only say, Amen—and wish Sen. Ervin and his colleagues well as they embark on an undertaking of enormous importance to the mechanisms by which we try to maintain our freedom.