NYT
1-18-73

# Veil Over Watergate

Chief Federal Judge John J. Sirica spoke for a host of incredulous observers at the Watergate trial when he told defendant Bernard Barker that he simply did not believe his story that $114,000 had arrived in unmarked envelopes from sources unknown. Since then the defense has moved from the incredible to the outrageous. It has presented the court with the extraordinary doctrine that anyone who, correctly or incorrectly, imagines himself or his friends to be in some sort of danger is thereby justified in breaking the law.

In enunciating this legal version of the protective-reaction strike, defense counsel Gerald Alch tried to cloak his clients' acts of political espionage in a mantle of patriotism. The violence which the defendants wanted to intercept, he said, would have been directed against "Republican officials, including but not limited to, the President."

Far from protecting high officials against violence, the validation of his thesis would constitute an open hunting license for every fanatic to take the law into his own hands. Guided only by hallucinations akin to the anti-Castro fanaticism that motivated the hirelings in the Watergate plot, any individuals or groups could feel free to take up arms or utilize any other repressive measures their paranoid suppositions dictated. Such a political law of the jungle might readily lead from protective espionage to defensive assassination.

The need becomes increasingly plain for extending the investigation beyond the case of the hirelings now on trial. The significant question in the unraveling of the Watergate scandal is less who carried out the orders than who issued them.

The courtroom scenario that has frustrated Judge Sirica's efforts to extract illuminating or even believable answers is all too transparent. The five defendants, who pleaded guilty to everything in order not to have to tell anything, acted in the tradition of an international espionage apparatus that considers caught agents expendable. That analogy is made stronger by indications that the invisible maste[illegible] intend to compensate their exposed mercenaries for any temporary sacrifice of their freedom.

The guilty pleas entered by the five self-confessed political spies do not of themselves raise any legal barriers to their recall as witnesses in the trial of the two remaining defendants. It is doubtful, however, that their enforced testimony would serve any purpose in getting at those crucial questions that go beyond their personal law-breaking. The prosecution, after all, represents the Justice Department of the same Administration whose re-election the defendants sought to advance through their illegal activities.

A trial, in any event, is an inadequate instrument for probing all the ramifications of a political scandal in which no charges have been leveled against the string-pullers responsible for planning and financing the whole operation. Questions beyond the guilt of the defendants —assuming that the prosecution had much stomach to ask them—might indeed be difficult to sustain over objections by defense counsel.

That transfers to the Senate the task of getting to the bottom of this ominous affair after the present trial ends. The aim of its inquiry should be to bypass the cloak-and-dagger hallucinations of the hired spies and to identify the chain of command that issued the orders and provided the funds. The prior guilty pleas of the defendants in Judge Sirica's court would make it possible for the Senators to question them without the protective cover of self-incrimination.

Senator Sam J. Ervin has already asked the Justice Department and other agencies to safeguard "all pertinent public and nonpublic documents" bearing on the Watergate case. As one who long ago expressed serious concern over the erosion of civil liberties through growing resort to political espionage, Mr. Ervin can find in the Watergate scandal an opportunity for exposing to full public scrutiny a subversion of the political process that must not be allowed to happen again.