

Crisis Of Law

By Anthony Lewis

BOSTON, Dec. 22—It is high political drama to learn that the Central Intelligence Agency conducted massive domestic spying operations in violation of its charter. But the disclosure, by Seymour Hersh in *The New York Times*, has even more profound implications for our view of law.

Here, on top of Watergate, is one more gross example of official crime—of lawlessness among those sworn to uphold the law. And that lawlessness brings “terrible retribution,” as Justice Brandeis warned nearly fifty years ago: “If the Government becomes a law-breaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy.”

When President Ford took office, one of his most urgent tasks was to restore public belief in the Government’s respect for law. He made matters worse by his pardon of Richard Nixon. Then he unnecessarily degraded international legal standards in condoning surreptitious American aid to the anti-Allende forces in Chile.

All this lends exceptional significance to Mr. Ford’s choice of a new Attorney General. It could indeed be the most important appointment he makes as President. A strong and respected figure in that office, after the

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corruption of the Nixon years, would be the most restoring of symbols.

President Ford has at least tentatively decided to appoint such a figure: Edward H. Levi, president of the University of Chicago and former dean of its law school. In character, in professional reputation, in philosophy, Mr. Levi is extraordinarily qualified to serve this President and restore the general faith in law.

But the appointment has run into objections from some Republican Senators, notable John Tower of Texas and Roman Hruska of Nebraska. It has therefore become a vital test of the President’s understanding and determination—and a test also of the integrity of this country’s intellectual conservatives.

Edward Levi would generally be reckoned a conservative in his outlook as educator and lawyer. He is a deliberate man, reflective, with a distrust of instant solutions to hard social problems and a deep dislike for short cuts in the law.

“The misuse of law as but another device for leverage,” he told entering law students last October, “is profoundly corrupting.” On an earlier occasion he said with regret that the student protest movement, however sincere its feelings, had accepted “the legitimacy of pressure, leverage and violence.”

Mr. Levi has been highly critical of student excesses, such as suppression of speakers with unpopular views. When violence came to the University of Chicago, he said that the day he called police on the campus, he would resign. He meant that calling in the police would signal his own failure—failure to maintain the ideals of a university. The remark conveyed something of his values and his view of personal responsibility.

In the continuing debate on the role of the Supreme Court he is on the side of caution. He said last year that the Court has a very great responsibility, when it reinterprets the law, “not to destroy the legislative process or the citizen’s feeling of participation in the determination of public matters.” He used the context of a subtle lecture on law and morals to criticize the recent decisions on abortion and capital punishment.

He is a quiet man with an understated ironic manner. Anyone who asks at the bar or the law schools about Edward Levi will find a remarkable respect for him, whether or not his views are shared. One admirer explained: “He inspires allegiance because he is trustworthy. He inspires respect because he believes so deeply in the primacy of mind, in the virtue of reason.”

Senator Tower has attacked Mr. Levi because he joined the National Lawyers Guild in the nineteen-thirties. He was in the Chicago chapter for a few years along with such others as Walter Schaefer, who became a great Justice of the Illinois Supreme Court. Does Senator Tower really care about that dusty history? Or is he worried that Edward Levi would be too independent as Attorney General, too resistant to pressure for political use of the law?

The Levi situation is a particular test for conservative commentators and thinkers. They have twitted liberals for opportunism, and fair enough. Now they can show us, by remaining silent or speaking out, whether know-nothings like John Tower speak for “conservatism” in this country.

All of us, liberal or conservative, have much at stake in President Ford’s selection of an Attorney General. Edward Levi is not the only person to restore the tattered fabric of law in this country. But he would be an exceptional choice, for this President and this time, and to back away now would be one more surrender to unreason.