

The Scent of Repression

By Fred M. Hechinger

The nation's freedom is rooted in the law and nurtured by mutual trust between the Government and the people. The Nixon Administration has consistently undermined liberty's legal roots and poisoned the air with the scent of repression. It has done so not by any single measure but by persuading the selfish interests of a divided country that the cause of "law and order" justifies governmental inroads on even the most sacred personal rights.

In the classic strategy of those who want to enlarge governmental power at the expense of the individual, the Administration has exploited irrational fears and suspicions. It has conjured up the specter of menacing conspiracies as a device to brush aside the Bill of Rights whenever its crucial provisions seem inconvenient. It has tried to persuade the American people that exposure by the news media of questionable governmental policies and practices is a threat to national security.

Long before the Administration's political espionage squads tried to bug the headquarters of its opposition, Mr. Nixon's Justice Department had declared the use of wire taps, without court orders, a mere extension of the President's "inherent" powers.

The same Justice Department has supported "no-knock" laws which give to the police the right to enter homes secretly or by force, in violation of the Fourth Amendment. It has advocated preventive detention—imprisonment without bail of persons on the mere suspicion that they might commit crimes. It has caused the incarceration of political dissenters on charges of conspiracies which subsequently proved unfounded.

The Administration responded to political protests with the dragnet arrests of thousands. For the first time in the nation's history, the Federal Government has used prior restraint as a means of stifling the freedom of the press. And by abrogating a reporter's right to protect the confidentiality of his sources, the Administration was responsible for the jailing of the first American newsman for his refusal to surrender rights basic to the free exercise of his professional duties.

These specific examples symbolize the Administration's contempt for civil liberties. But more important than any single incident is a corruption that pervades the atmosphere. Electronic eavesdropping thus becomes a "caper." Unauthorized political dossiers collected by the military

are dismissed as an administrative lapse. False arrests of innocent persons are shrugged off by the Attorney General as an unavoidable inconvenience.

President Nixon, by his silence on these issues, has made it clear that he considers nothing wrong with this erosion of individual rights. The appointment to the Supreme Court of William H. Rehnquist, a staunch defender of the extension of executive power at the expense of personal liberties, signals Mr. Nixon's conviction that this dangerous trend is not merely a matter of drift but of design.

What makes that trend so insidious is that little public attention is paid to it. Preoccupied with their daily routines, too many Americans worry little about the abridgement of rights which, though fundamental, may not concern them for the moment. They feel remote from the problem of somebody else's tapped phone, from the suppression of a dissenting opinion not their own, from the false arrest of a stranger who advocates a cause about which they care little. Being used to a free press, they consider governmental censorship as something peculiar to distant countries that can't happen here.

But it has begun to happen here. This is not because the American people have deliberately turned their backs on liberty. It is rather because the Administration has skillfully persuaded each special interest group that only somebody else's rights are at stake. In addition to thus encouraging apathy about civil liberties, Mr. Nixon has played on the fears and prejudices of one sector to make the restrictions on others seem a necessary defense of national security.

This is a fatal fallacy. The late Justice Robert H. Jackson said: "We can afford no liberties with liberty itself." Repression, when sanctioned against some, is tomorrow's threat to all. Senator McGovern is clearly right in warning that "we are confronted . . . with both a moral and constitutional crisis of unprecedented dimensions."

It matters less whether the Nixon Administration has created that crisis as a deliberate political strategy or through its lack of comprehension of the nature of a free society. What matters now is that the country have leadership that can restore those fundamental rights which have been eroded during the past four years and rebuild the safeguards which alone can keep America free.

Fred M. Hechinger is a member of the editorial board of The Times.