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# Senator Says Nixon's Ban On Illegal Acts Was Defied

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WASHINGTON, Sept. 23—Senator Frank Church, chairman of the Senate Select Committee on Intelligence, said today that Federal intelligence agencies had sought President Nixon's approval for a variety of illegal acts, and then, after Mr. Nixon revoked his permission, "paid no heed to the revocation."

The Senator referred to burglaries, mail openings and other practices carried out during the Nixon Administration even before a White House adviser recommended a sweeping surveillance plan calling for many of the same activities.

The adviser, Tom Charles Huston, testified to the committee today that neither he, nor, to the best of his knowledge, Mr. Nixon had had any knowledge that the illegal activities were being pursued independently by the intelligence agencies.

Mr. Huston, who drew up in 1970 a controversial proposal for an expanded and reorganized domestic surveillance effort that bears his name, said that the Huston plan might never have existed "if we had known that many of the tools we were asking for were already being used and weren't getting any results."

## Approval Rescinded

Mr. Nixon approved the Huston plan, which recommended that "present restrictions" against the use of burglaries and mail openings by intelligence agents be lifted, in July of 1970, but rescinded his approval five days later.

Asserting that the intelligence agencies had ignored Mr. Nixon's revocation, Senator Church said:

"They continued the very practices for which they had sought Presidential authority—expanding some of them and reinstating others which had been abolished years before."

Mr. Church, an Idaho Democrat, drew a parallel between today's assertions and the disclosure in committee hearings last week that an official of the Central Intelligence Agency had not destroyed, despite a directive from Mr. Nixon, a quantity of shellfish toxin in the agency's possession.

"As in the case of the shellfish toxin," the Senator said, "the decision of the President seemed to matter little."

The Nixon Administration's domestic surveillance plan was formulated by Mr. Huston and representatives of the Federal intelligence agencies in the spring of 1970, when violence

on and around college campuses had reached its peak.

The plan contained a number of proposals for increased surveillance of radical groups and leaders, but the two that caused the greatest furor when they became public at the Senate Watergate committee's hearings in 1973 were those recommending the removal of restrictions on break-ins and mail openings.

Mr. Nixon's approval of those proposals despite Mr. Huston's caveat that they were clearly illegal formed the basis for one of the three articles of impeachment voted against the former President last year by the House Judiciary Committee.

Mr. Huston testified today that there had never been any discussion, in his presence, in the Nixon White House or in the Interagency Committee that drafted the recommendations, of the illegality or dubious constitutionality of any of the proposals.

"It was my opinion at the time," Mr. Huston told the Senators, that the Fourth Amendment to the Constitution, which prohibits search and seizure not accompanied by a judicial warrant, "didn't apply to the President" in cases where the national security was at issue.

Asked by Senator Richard S. Schweiker, Republican of Pennsylvania, whether Mr. Nixon or his aides had shared that opinion, Mr. Huston replied "my guess would be they never gave any thought to it."

It was not publicly known until this year that the C.I.A., between 1953 and 1973, opened and copied mail from the United States to Communist countries.

Mr. Huston, whose hair is considerably shorter and grayer than it was during his days in the Nixon Administration, surprised the committee members and the capacity crowd in the Old Senate Caucus room when he acknowledged that he no longer believed the Huston plan to be legally and constitutionally justifiable.

At one point, Senator Walter F. Mondale, Democrat of Minnesota, admonished Mr. Huston that he could not "take the law in your own hands and play God just because you don't like something."

"Senator, I agree with that," Mr. Huston replied.