

The Politics of Secrecy

By Anthony Lewis

BOSTON, Feb. 25—When Watergate was over, it was generally expected that Presidents would henceforth be more modest and circumspect in claiming the right to withhold information from Congress. But President Ford has now made a claim of executive privilege that rivals the palmiest Nixon days in extravagance—and in one respect may indeed outdo them.

Mr. Ford's Attorney General, Edward H. Levi, has asserted the right to keep Congress from questioning a private citizen about a legislative matter. His claim is that by executive power alone, without any change in the law that authorizes Congress to compel testimony, a President's wish can immunize a citizen from testifying.

The setting for this astonishing claim is an investigation of the practice of intercepting private cable and Telex messages overseas. It is not news that Government agents have been reading those cables. Last fall it was officially disclosed that for three decades commercial cable companies had routinely supplied the Government with copies of most of the messages they carried.

The director of the National Security Agency, Lieut. Gen. Lew Allen Jr., said then that the interception operations had been stopped in 1973—as Watergate boiled up. A subcommittee of the House Government Operations Committee, which had uncovered the practice, wanted to make sure that it had ended. There was a suspicion that some other method might have replace the abandoned one of the companies physically turning over copies.

The subcommittee understood that the subject was a sensitive one. It had no desire to get into security matters; it was concerned about possible violations of law and abuses of individual privacy. It therefore wrote General Allen and Attorney General Levi, offering them a chance to discuss any security problems before the inquiry proceeded. There was no answer.

Subpoenas went out to the cable companies and to five Government people. Then, suddenly, without discussion or particulars, came the President's order. He directed the five "to decline to comply with the subpoenas."

The five present and former Government employees were immediately cited for contempt of Congress. But the more interesting test will come next week, when the private company officials are due to answer their subpoenas—and are expected to refuse. The subcommittee chairman, Mrs. Bella Abzug, put it:

"Not to my knowledge has a corporation ever sought to claim that it could not produce documents because a President invoked executive privilege."

Why should the Ford Administration press such a novel theory of secrecy at this time, such a far-reaching new claim of power? It is a fair guess that the answer does not lie in law. It looks like a straight political decision.

Secrecy and national security are winning political slogans these days, or so it seems. Mr. Ford and the C.I.A. won a warm public response when they dramatized the murder of a C.I.A. agent in Athens and sought to blame it on leakers. Then they won a big victory when the House suppressed the report of its own intelligence committee.

Since then Mr. Ford has taken a very tough line on intelligence and security issues. He proposed an intelli-

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gence reorganization plan that put few legal limits on C.I.A. activity. He called for a new law to protect the secrecy of intelligence sources and methods—a tougher draft of legislation than the C.I.A. itself had proposed.

Then came the affair of Daniel Schorr, the CBS reporter who had a copy of the House intelligence report and gave it to The Village Voice for publication. Whatever faults there may have been in the handling of the business, Mr. Schorr violated no visible law, disclosed nothing that had not already been reported in substance and did nothing that in essence is not common in Washington. That he should be pilloried while nothing is done about C.I.A. and F.B.I. officials who grossly abused their power and told flagrant lies indicates the present mood in Washington.

Seeking to exploit that mood, the White House has made an extreme claim of executive privilege. It hopes that members of the House, afraid to look weak on national security, will refuse to support the subcommittee. The result would be one more extension of Presidential power beyond the law.

The saddest part of this episode is the involvement of Attorney General Levi. Just the other day he testified that on issues of privilege neither the Executive nor Congress should press too far. He recalled that President Washington, despite Cabinet doubts, had given a House inquiry in 1792 the facts on the disastrous St. Clair expedition. Presidents and Congresses, Mr. Levi said, should work these things out "judiciously, calmly, moderately."

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