

The Men of Zeal

By Anthony Lewis

"The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding."

—Mr. Justice Brandeis, 1928

BOSTON, May 23—President Nixon's latest statement on Watergate shows all the signs of haste and desperation. He evidently saw that testimony before the Senate Select Committee and in other forums was bringing the crimes closer and closer to the oval office in the White House, and he sought to soften the impact by further concessions and explanations.

The statement is of exceptional importance, nevertheless, if not for the reasons the President had in mind. It graphically demonstrates a phenomenon as disturbing as the lies and arrogance of Watergate. That is the mushrooming passion for secrecy and secret operations in the Government of the United States.

Again and again Mr. Nixon spoke of "national security" as if it were self-evident that the most important issues before America had to be decided by a handful of men in secret. To protect that process, he suggested, the President could wiretap as he wished, set up a secret police operation in the White House and make massive plans for covert operations, foreign and domestic.

But those are not the assumptions of our law or our history.

President Nixon said, for example, that the wiretapping of Henry Kissinger's staff was "legal." The claim is based on a statute allowing the President to use taps against "foreign intelligence activities." But the actual target here was leaks to newspapers. The chance of getting the courts to bring that under the umbrella of "foreign intelligence activities" was about as near zero as the later attempt to make the statute cover domestic security, which the Supreme Court unanimously rejected.

The wiretaps were "legal" only in the sense that they could go on until the law caught up with them. Those in charge of the tapping evidenced a consciousness of guilt when they removed the transcripts from J. Edgar Hoover's files lest he use them to "blackmail" the President.

The reasons given for undertaking the tapping and other acts of security zealotry are as disturbing as the techniques used. Among them were the newspaper disclosure that the United States was bombing Cambodia and then the publication of the Pentagon Papers, showing that the Government had told the American people a series of lies about our entry into and our conduct of the Vietnam war.

Of course it is convenient for a gov-

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ernment to be able to carry on a secret war when it wishes, or to deceive its public about what is happening. But the framers of the American Constitution did not design our system for the convenience of the governors. They were interested in the governed—in their right and duty to participate in the decisions of public life.

Through most of our history that constitutional promise was kept. Even during the Civil War, the most terrible test the United States has had, Lincoln never refused a Congressional request for military information. It is only in this last generation that the presumption has moved so sharply toward secret government. Why?

The explanation must go back to World War II, when the United States faced a conspiratorial and totally evil enemy and, for the first time, undertook covert operations on a large scale. Then, as the cold war began, many of the intelligence operators and their tactics were carried over into the struggle against another conspiratorial power.

Secrecy feeds itself. When a government conducts important activities in a clandestine way, knowledge of those operations is power. More and more of the critical decisions are made in closed groups, without the detached scrutiny of Congress or even of the regular executive institutions.

The men who operate the closed system may mean well. They may be, as the President's statement said, "highly motivated." But without the light of day upon it, any governmental process is in danger of going wrong after a time. That, at least, was what the founders of our country believed. Circumstances have changed, but the principle has not. Can anyone believe that the United States would be worse off today if Congress had been told the truth from the beginning about Vietnam and Laos and Cambodia?

The greatest danger is that conspiratorial operations abroad lead to the same process at home. That clearly began to happen in the Nixon years. For the President's statement shows really a paranoid fear of public knowledge, leading to such things as the use of privately paid detectives in the White House and the creation of a security office outside legally authorized institutions. The latter's "primary mission," Mr. Nixon said, was "to plug leaks." What were its other missions?

Conservatives should be urgently concerned about these disclosures, not liberals alone. For those who want to preserve the essence of American constitutionalism should see here something very different—secret, self-perpetuating government by men of zeal.