

No Taps for the Tappers

By Tom Wicker

IN THE NATION

Mr. Charles Colson has painted an appealing picture of a kindly President Nixon who did not press his inquiries about Watergate for fear of "making an innocent person a scapegoat," and who wanted to "reassure" his aides rather than cross-examine them.

"There was no grilling," Mr. Colson told Christopher Lydon of *The New York Times*. "The President was and is very trusting of his close colleagues and associates. That's not an unjustifiable human reaction."

Indeed not. But it's too bad that it was Mr. Nixon's reaction to accusations of criminal behaviour against Mr. Colson, John Mitchell and the like, rather than against lesser White House staff men who in earlier years were believed to be leaking information to the press—which is not as yet a crime. In the case of the leaks, however, kindly Mr. Nixon responded with wiretaps on White House aides, including some of Henry Kissinger's most highly placed men and one of Mr. Kissinger's close friends in the press.

If this suggests that there may be something wrong with kindly Mr. Nixon's sense of values, it is meant to, and there is. It is more than a little incredible that a President would be willing to tap his own staff men—when he knew such tapping was, at best, of questionable legality—to stop leaks, yet could not bring himself even to "grill" some of the most important members of his Administration when they were accused of crimes. Even when it was tough Charles Colson, not the soft-headed liberal press, who was making the charge, kindly Mr. Nixon couldn't bear to put the heat on anybody close to him.

So it is not surprising that Mr. Nixon does not seem so kindly and forbearing to Morton Halperin, a former member of the Nixon national security staff, who was one of those whose telephone was tapped—in his case, for several months in 1969 and 1970, during which period one of those overheard using it was Daniel Ellsberg. Mr. Halperin apparently does not regard his former superior, Mr. Kissinger, as any more soft-hearted than Mr. Nixon; at any rate, Mr. Halperin is said to be ready to file suit, under the provisions of the Omnibus Crime Act of 1968, against Mr. Kissinger, his former deputy, Alexander Haig, and perhaps Mr. Nixon himself, for \$100 per day for each day the Halperin phone was tapped.

Here's hoping Mr. Halperin collects. Say what one will about national security, organized crime, and all the other catch phrases, wiretapping is a dirty business. It is eavesdropping. It is spying. It is an invasion of individual privacy. Used against one's own associates, it is a personal betrayal of what Charles Colson called "human reaction." It is, in addition, a grab-bag sort of weapon; whoever speaks on a tapped phone, about whatever intimate subject, is overheard and

logged indiscriminately with the supposed target of this kind of surreptitious search.

In Canada, "tampering with telephones has been so unthinkable . . . that a law against it didn't seem necessary to the average Canadian," a member of the Canadian Parliament said recently. So it ought to be everywhere; but alas! even in Canada, that gentlest of nations, it now seems necessary to the Government that there should be a law prohibiting every form of private wiretapping or bugging—but allowing the armed forces and the police, under certain conditions, to apply their sordid eavesdropping techniques. These are fatal loopholes.

The truth is that a little legal wiretapping and bugging is bound to lead to a lot that is either illegal or questionable. When the 1968 Congressional Crime Act prescribed court orders for wiretapping, say, organized crime, but left it unsettled whether a court order was required for so-called "national security" taps, Congress, in effect, invited the executive branch to move in with its Liddys and McCords. The results, not least, were the taps on such men as Morton Halperin and Henry Brandon, the respected correspondent of *The London Sunday Times*.

Now the Supreme Court has ruled out, generally speaking, such unauthorized "national security" taps; but in the meantime, much damage has been done—to Mr. Halperin among others—and an oppressive climate has been fostered in which wiretapping and bugging have become accepted tools of law and security. Thus Representative Sam Steiger of Arizona, in hot pursuit of a sports corporation he considers to be linked to organized crime, finds it only "unsavory"—not illegal—that one of his aides bugged a hotel room in San Diego. And that is only one example of such abuses undertaken in what is thought to be a "good cause."

This is an area that cries out for re-examination. Legal wiretapping, which Robert Kennedy once sponsored, is at best a limited and wasteful tool of law enforcement. It requires considerable manpower and money for very small results; against organized crime, its use has been primarily in New York and New Jersey, and its results have been minimal, mostly having to do with gambling; in support of "national security" it has resulted in the capture of few real spies and the violation of the rights of untold thousands of American citizens.

Electronic eavesdropping, in short, is something Americans can quite easily do without; but with which they cannot live except in fear of abuse, excess and lack of any control, except the sort exercised by kindly Richard Nixon in his farcical "investigation" of the Watergate case.