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# Mr. Nixon's S.S.

By Tom Wicker

By late October, 1971, Attorney General John Mitchell, exasperated by his difficulties with J. Edgar Hoover, had persuaded President Nixon to fire the elderly and cantankerous F.B.I. director. An appointment for Mr. Hoover was made at the Oval Office; unaware of what was in store, he went over to talk to the President.

All afternoon, Mr. Mitchell waited at the Justice Department for word that the deed had been done. But the word never came. Finally, the Attorney General called Mr. Nixon and asked what had happened.

"I had him in here," the President replied. "But I just couldn't do it."

That story, recalled by a former Administration official, takes on verisimilitude from the testimony of John D. Ehrlichman that "the Administration would have been better off if Mr. Hoover had been retired . . . he was fixed in his views and he had made operations very difficult."

At least two Presidents and three Attorneys General had reached that conclusion before Mr. Nixon and Mr. Mitchell. But no President did anything about it—all, probably, for the same basic reasons. Mr. Hoover was regarded as an icon of law, order and patriotism by so many people that firing him might have been politically unprofitable; and he might, or might not, for all anyone knew, have been willing to use whatever information he had in his files against a President who tried to force him out—or against that President's associates.

So far as is known, however, only the Nixon Administration took direct action to get around Mr. Hoover's

## IN THE NATION

"fixed views" and the frustrations they caused. Unable to face the political or other possible consequences of proceeding legally—by removing Mr. Hoover and bringing in a new F.B.I. director, whose nomination would have had to be confirmed by the Senate—Mr. Nixon created his own secret police, answerable only to the White House, not known to the public or financed by specific Congressional appropriation, and ordered these "plumbers" to do what he could not get the F.B.I. to do.

This secret Presidential police force then was given a highly charged "national security" mission—so much so that Mr. Ehrlichman quoted from Mr. Nixon's own admission of May 22 that he could understand "how highly motivated individuals" could feel justified in breaking into the office of Daniel Ellsberg's psychiatrist to steal Mr. Ellsberg's medical records. (The same highly charged group of "plumbers," transferred intact to Mr. Nixon's re-election committee, where no national security matters had any place, later broke into Democratic party headquarters twice.)

Mr. Ehrlichman did not specifically order the burgling of the psychiatrist's office, he said, nor did Mr. Nixon. Yet they gave a low-level group of adventurers such latitude and urgings that Mr. Nixon later could "understand" how the plumbers decided on the burglary. In fact, Mr. Ehrlichman said that, even if specifically unauthorized, the burglary was well within Mr. Nixon's powers to guard the national security—as, indeed, was the creation of his secret White House police unit.

To hear Mr. Ehrlichman tell it in his condescending manner, Mr. Nixon had the power to do virtually anything he pleased, and by authority of Congress, because of a statute setting out legal limits on electronic eavesdropping. That statute adds that nothing in it is intended to inhibit a President's power to guard against foreign intelligence activities. So if the leaking of the Pentagon Papers by Daniel Ellsberg was linked, or possibly linked, to foreign intelligence activities, Mr. Nixon had a free hand in tracking down the matter, according to Ehrlichman.

But as Senator Ervin pointed out, what the statute in question seems to say in the "mother tongue" is that nothing in the specified wiretap limitations is intended to limit his capacity to guard against foreign intelligence activities—that is, by wiretapping or bugging, since the measure is concerned only with eavesdropping, and since the courts, so far, have left the executive free to eavesdrop without a court order on foreign embassies, agents and the like.

To stretch this, or even the "implied" Presidential powers of the Constitution, into authority to create a secret police force and send it out to commit burglaries, for whatever laudable purpose a President may think he has, is to assert an unlimited Presidential power to set aside the law when it inconveniences him and when he can find any slight possibility—never hard to do—of foreign intelligence activity.

As Senator Talmadge inquired, does this reasoning give the President power to order murders? Why only three or four or five "plumbers"? Suppose a President thought he needed fifty, a hundred, a thousand? Mr. Ehrlichman has outlined the road to a White House S.S.; and he has made clear that, by the margin of a carelessly taped doorknob, the nation has escaped the beginnings of a police state.