

By William Safire

ESSAY

WASHINGTON—In this week's hearings to confirm a new Secretary of State, Senate Foreign Relations Committee Chairman J. William Fulbright was tempted to stretch his arm across the committee table and witness table, take the ample jowl of Henry Kissinger between thumb and forefinger and give him an affectionate pinch.

Senator Fulbright is delighted because Dr. Kissinger's appointment helps him fulfill a dream: to give the Foreign Relations Committee the illusion of power without the responsibility of power.

This enchantment with the old myth rather than the new reality of power is apparent in the way the committee has pretended to be a stern guardian of the right to privacy against illegal wiretapping conducted under the guise of national security.

Because Dr. Kissinger had obviously been drawn into the F.B.I.'s probably illegal wiretapping of seventeen Government officials and newsmen (this writer included), the committee had to feign a confrontation with the Administration.

The minuet began. The committee "demanded" an F.B.I. summary of what the illegal taps showed; Attorney General Richardson offered instead a summary of the summary; the committee "insisted" on the real summary; Mr. Richardson dramatically caved in, met with two Senators and let them glance at the F.B.I.'s white-washing self-investigation for a half-hour before posing for pictures.

The committee "won"; ordinarily skeptical commentators lapped it up; and the Senators walked away relieved that they did not have to ask any embarrassing questions. Next week, the committee intends to say it really gave the Justice Department a going-over, found Dr. Kissinger only tangentially connected with the taps, and call for the full Senate's confirmation.

If all this had not been a charade, Senators Sparkman and Case might have dug out some interesting information with questions like these: Did then-Attorney General John Mitchell sign the seventeen authorizations for warrantless wiretaps before or after the names of the targets were filled in at the top? Were the F.B.I. taps conducted for longer than ninety days without a fresh authorization as required by law—or, as Mr. Mitchell will claim, was there any "short-circuiting" of his office?

The Foreign Relations Committee does not want to know about this, because it would lead to an exposure far more significant than whether Henry Kissinger gained a bureaucratic edge by listening in on conversations of the closest aides to the Secretary of State and the Secretary of Defense.

They would discover, for example, that at least two of the seventeen men

tapped had not the remotest connection with foreign affairs, but were made targets because one had opposed John Mitchell's politics and the other had been Bob Finch's right-hand man.

That means that somebody way up there might well have broken the law. What happens when somebody way up there is suspected of breaking a law? The present Attorney General comes under pressure to look into the acts of one of his predecessors and the people he dealt with at the center of power.

If the committee had been interested, it would have come across a slight difference of opinion going on in the Nixon Administration today: Special Prosecutor Archibald Cox "has asked for further information" about these wiretaps, and the Justice Department is most reluctantly letting him continue the investigation he has begun. (If this were a news story, that would be the lead.)

The present Attorney General, with heavy heart, has had to pose a question along these lines to his associates: "What are the requirements of proof of violation of the Civil Rights Act in connection with the seventeen wiretaps?"

But the Foreign Relations Committee does not know this, because it has not asked. Under pressure from the press, however (John Crewdson of The New York Times has been the reporter uncovering this story), the committee might have to modify the charade and blurt out a real question or two. Otherwise it would give up its right to be shocked when the rest of the story inexorably unfolds.

I do not believe Henry Kissinger was personally responsible for providing a cover of "national security" for wiretaps that had nothing to do with national security. But the Kissinger nomination is the Senate's crowbar, the only one it is likely to have, to pry into illegal and unconscionable surveillance.

If the Senators only advise and condone, they will have little cause later to fulminate about "executive privilege." If the committee wriggles out of its duty to defend against the perversion of our intelligence-gathering process, when it does have the power, then it deserves no serious consultation when it is powerless.

If, in finding out who called the tune for this macabre tap dance, the Senators must delay the confirmation of the man best trained to be Secretary of State since John Foster Dulles, so be it.

They will not lose the friendship or future deference of Henry Kissinger, a man who well understands linkage, who smiles at the illusion of power, and who profoundly respects the application of real power.