

Peas in a Pod: Suspended Writs,

A Commentary

By Nicholas von Hoffman

Richard Helms and Henry Kissinger cling to public office, the last of the big names accused of violating the constitutional rights of others to protect the national security. Like Messrs. Nixon, Mitchell, Liddy and the others who have been made to walk the plank, theirs is a peculiar place in history, for great anger has been directed at the very set of public officials who proceeded with the greatest leniency, constitutional

punctilio and legal niceness against what was seen, truly or not, as disloyalty in war time.

Kissinger is accused of ordering a dozen or so illegal wire taps; Secretary of State Seward ordered car loads of people thrown into jail and, when complaints were made, President Lincoln suspended the writ of habeas corpus. Nor was it first under Nixon that a court heard a representative of the Justice Department cop the I-was-only-acting-under-higher-orders plea. That came up in Boston in 1920 over the government's ar-

resting political without a warrant and holding them in jail without bail. "Any citizen with a knowledge of Americanism should resign when given such instructions," Judge George W. Anderson replied from the bench.

As badly as Nixon treated Daniel Ellsberg, it was Mr. Truman's Department of Justice which, in all probability, framed and murdered Ethel and Julius Rosenberg. While the Vietnam War seditionists made idiots out of their prosecutors and walked away free, Mr. Truman im-

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posed his loyalty program on the country and made it stick.

Compilations of enemies' lists didn't originate with Nixon either. By 1920 the General Intelligence Division of the Justice Department had files on more than 200,000 purported subversives. In those days they didn't sit on the dossiers, content to have the IRS torment a relatively few on the lists. On Jan. 2, 1920, government agents arrested between 4,000 and 5,000 people in their homes and

places of work because of their opinions and associations.

The use of agents provocateurs and plants in left wing organizations was so common then that the same Judge Anderson cited above remarked, "It is perfectly evident to my mind that the government owns and operates at least part of the Communist Party." Political burglaries, opening mail, suppressing opposition newspapers was conducted on a scale that would impress Indira Gandhi. Hundreds of periodicals were

wiped out; even *The Nation* had an issue suppressed in 1918 for an article critical of Samuel Gompers, head of the American Federation of Labor, a man who played the same pro-war, conservative role that George Meany does today.

Nixon's winking encouragement of a few hard-hat mobs beating up peaceniks is as nothing compared to the vigilante organizations let loose under Woodrow Wilson: the American Defense Society, the National Se-

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curity League, the American Protective League, the Home Defense League, the Knights of Liberty, the American Rights League, the Anti-Yellow Dog League, the American Anti-Anarchy Association, the Boy Spies of America, the Sedition Slammers and the Terrible Threateners. With chapters in 500 towns and cities and a membership of 250,000 it is estimated that the American Protective League snooped, harassed, spied and compiled dossiers on as many as 3 million people. The League was an official arm of the Department of Justice, which issued badges and identification cards to its members bearing the words "Secret Service Division."

You can use these bits of history to show progress in civil liberties, but it's more plausible to argue that the restraint of the Johnson/Nixon

years is a reflection of the opposition's weakness. In the early part of the century the government was taming a fractious, independent population. There was large scale and well organized opposition to the dominant ideology at least into the '20s. But by the time we come to Vietnam, the opposition was of a temporary, fleeting kind, forming and reforming in an ad hoc, fugitive sort of way and, because it was built on one issue, not a fully thought-out political program, it vanished with the end of the shooting.

The past 60 years have seen the perfection of better government devices for social and political control than the American Protective League. By most indications we have been made into a more docile, tamer and timid people who think and act in the approved ways, not by threats of jail, but because we want to please

those above us or because it is enough to know the government has our number, usually our Social Security number, and has put it in a computer.

The fear of governmental power grows apace with the knowledge of it, but when it comes to limiting it, we kick the computer or blame those temporarily in charge. The history of official social and political control, however, argues it's not the office holders as much as it is the institutions they run that we should be looking at. Until 1870 there was no Justice Department, but by 1907 the Department had started a national dossier file; by 1909 America had a federal police force, and ever since, institutional behavior has been the same regardless of who was President.

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