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Legal Stupidity

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Abstract

Governments provide a professional judiciary to apply laws unjustly. There was a time when people were judged by trials of combat, fire and water.[1] These were all based on a belief that trials were moral confrontations. If a person was judged favorably, it was because he was right relative to another individual or neutral nature.[a] Those who deride such judicial mechanisms might take a good look at our modern jousting list—the court of law—where hired wits do battle[2] to determine the morality (guilt or innocence) of the person or system on trial.

Discussion

In court cases, the hired guns—the lawyers—use all the tricks in and out of the book to win "Their" case. The jury determines who has the best lawyer,[3] and judges preside to see that the game is played fairly while occasionally obstructing any real quest for the truth.[4] At worst, judges may[5] intervene to interpret formal rules according to the principle that the game should be fair but not too fair. Only slightly better is the fact that many cases are settled to the advantage of the reigning powers, which, put the other way, means were are condemned to injustice.[6]

In all seats of political power, be they administrative, legislative or judicial, ceremony shapes the ways in which personalities interact to solve and create real and imaginary problems. The preoccupation with most political officials is with the rituals of government. As long as these assure the likelihood that those in power will retain their positions, the rituals are honored as sacred. The impact of decisions reached under such circumstances is usually secondary to the desirability of maintaining decorum and giving speakers a chance to pronounce a few slogans for public consumption. Stability depends not on the validity of pronouncements but whether or not they satisfy the people. The regulation of society is considered secondary and is indirectly affected only when conservatives become convinced the status quo must be further preserved and protected or reformers can convince political hacks it really is in their own best interests to apply some common ideal to reality.

As always, the biggest threat to the state is the man who thinks for himself[7] and, ironically, lives up to the rules because–cognitive dissonance aside–at the first sign of intellectual integrity, the state totters because then everyone else is shown up as a shallow faker. In this context, the Puritans never tired of denouncing the "Civil" man–one who was a good citizen, obeyed the laws, discharges his social obligations and never injures others. Such a paragon of virtue was continually reminded by the preacher that he was on his way to hell.[8] To put it another way, there is no one so infuriating as one who lives up to the rules. Don't we all cheat a bit? Isn't everyone a bit dirty? And if someone does not or is not, how is he treated? Well, there was one man like that, and he was legally crucified.

For some reason, Americans entertain an unjustified belief in justice. We do this primarily by listening to what we are told about the courts rather than watching what happens in them. As high priests of

a The idea here was that a bound up guilty person would be rejected by water and float. This was challenged, in 1662, in Connecticut by a skeptic who opined that anyone in such a condition would float and offered himself as a test. Unfortunately for his cause and himself, he sank.

the legal religion, the Injustices of the Supreme Court set the general tone of their trade by desecrating the Constitution while extolling its virtues.

The Fourteenth Amendment provided the Court with an excellent opportunity to show what it could do to a law. It was an amendment conceived and composed with the rights of people clearly in mind. Nevertheless, the term "Person" was expanded to include corporations as legal entities.[9] It was indeed a banner day in the history of civil rights when the Court interpreted "Person" to mean "A human being". The key phrases of the Constitution—"Due process", "Equal protection", etc.—are like so many legal spigots courts regulate to suit their circumstantial fancy.[10] Is the legal process getting too "Due"? Well, the courts cut back a bit on dueness. Is protection of the law getting too equal? Then certain, favored people will be granted a bit more equality[11] than others by a liberal Court which has long since abandoned its efforts to create an open society of individuals cooperating in competing and is instead committed to establishing a standardized, homogenized America just when some ethnic groups are asserting their particular identity.

The "Due process" clause of the 14th amendment also provides a good example of the principle that a judge does not have to been schizoid to be a member of the Supreme Court, but it helps. "Due process" means the law must be applied and obeyed. But the Court made a mockery of due process by inventing the concept of "Incorporation" by which the constitutional prohibition on congressional limitations on freedom of speech (*et al.*) was extended to the several states.[12] This was facilitated by the lumping of all the amendments in the Bill of Rights together, despite the obvious fact that amendments two through eight are designed to protect *individual rights*–the right to bear arms, be safe from warrantless searches, etc.–while the first was explicitly framed to *limit the power of the newly created federal government*. By default, the states were left free to establish religions, etc., and in some cases did–e.g., New York was legally a Methodist state until 1833. The justices who crowed about due process were those who desecrated it.

Not surprisingly, practically all popular beliefs about Constitutional government are results of political propaganda. At best, they are misleading; at worst, false. Civics books, for example, are written to inculcate in future citizens a sense of belonging and citizenship beyond any sense of reason. In no civics book does an American find that law breaking is a major preoccupation at every level of government.[13] Although lawlessness in America has a long, dishonorable history, citizens are always surprised when they first encounter it. The fact is Americans make the best criminals in the world. For example, Cleveland, Ohio, has six times as many murders as London. More people are robbed or assaulted with intent to rob in Cleveland every year than in all of England, Scotland and Wales. More people are murdered every year in St. Louis than in England and Wales. There are more murders in New York City every year than in the British Isles, France, Italy or Germany.[14]

Without a doubt, the worst single violation of civil rights of American citizens and abuse of the Constitution was the detention of Japanese-Americans during World War II.[15] After acknowledging the total absence of any provocation whatsoever, West Coast army commander General John DeWitt indulged in stupefying illogic when declaring, "The very fact that no sabotage has taken place is disturbing and confirming indication that such action will be taken"[16] –a non-Pavlovian reaction to the absence of a stimulus.

In **Korematsu v. United States**, one of the worst decisions in Supreme Court history, former Klansman, Justice Hugo Black tried to explain away the truth. "Our task would be simple ....were this a case involving the imprisonment of a loyal citizen in a concentration camp because of racial prejudice", he wrote, which was *exactly* what the case was–a loyal citizen–and 127,000 others[17]–was imprisoned on the assumption that his race/ethnicity made him security risk not because of anything he had done but because of who he was. So, ironically, here is an accurate verbalization of reality blithely ignored by its writer. With no apparent cognitive dissonance whatsoever, he proceeded to rationalize the detention of a disfavored racial

b Forty years after the fact Mr. Korematsu sought to have his case voided retroactively. The court found the Justice Department and the Army had distorted the record to make it appear there had been a legitimate security risk when there was none. Congress granted $20,000 to each detainee. (Feldman) The greater irony is that the sacred rights for which we were fighting were suspended while we were fighting for them.

Btw, Italians in Britain were likewise detained during the war.

minority member behind barbed wire and machine gun towers because when his colleagues scrutinized the operative Executive Order 9066 for racial discrimination, they found no explicit mention of race or ethnicity. To his credit, rights-lover but efficient J. Edgar Hoover informed Attorney General Biddle that mass evacuations were not necessary because all security risks had been rounded up by the FBI,[b] which, within two hours of the attack on Pearl Harbor, began taking Japanese leaders into custody, and, as panic spread along the west coast, government officials searched houses where aliens lived for pictures or documents which *might suggest* loyalty Japan.[18] Biddle duly informed the president of Hoover's message but to no effect.[19] Politics triumphed over law[20] and the Constitution, which, apparently, can be suspended in wartime.[21]

Thus, this episode proved the impotency of the Constitution as a guarantor of rights,[22] which are indulgences granted by government authorities for the moment.[23] As grants, they are subject to revocation whenever it suits those in power to exercise this totally illegal and unconstitutional option. Further, when there is an abuse of authority, the courts are as likely to protect the villains as the victims. Finally, it proved the American dream of assimilation was a failed myth,[24] but, in a rush to admit its mistake, forty years later the government apologized and made reparations of $1.6 billion to the survivors of the incarceration by their racist government.[25]

The experience of the those who at the time challenged the legality of the incarceration program calls attention to another weakness in our judicial system: someone has to break a law, and be punished before being able to get a ruling as to the legality of the law. E.g.,–from another domain, Rosa Parks had to get arrested in a bus in order to get the laws on segregation into the court system. There should be a way to have a prior ruling on a bill's constitutionality as it is on the way to becoming a law.

Courts really are show places for the legal process. They are invariably pretentious, ritualized and somber. Upon entering a court, one gets the immediate impression that something important must go on in such a setting. The impression is correct: justice is dispensed with. A killer is set free because some functionary dotted a "T" or crossed an eye. A defendant is railroaded because the judge or prosecutor is up for reelection and needs to toughen his/her image. The bottom line is not justice but the belief in justice, but on what is that functionless belief based? Facts and knowledge or perhaps ignorance and stupidity?

The facts are that for every 1,000 *major* felonies, 17 perpetrators go to jail but for what? In pretrial maneuvering, armed robbery is watered down to simple robbery, and rape is plea-bargained down to assault and battery. Further, in 1983, while forty-two percent of those sent to state prisons were on parole for prior convictions, 55,000 criminals were set free on legal technicalities.[26] In 1991, only 21% of people who committed major crimes were arrested. Only17% of murders, 5% of rapes and 3% of robbery, assault, burglary and auto theft lead to prison sentences.[27] These are facts upon which our belief in the legal system is *not* based, and it could be considered a gold-plated invitation to felons to do their thing–and it is.[c]

An even better example of how a label can change nothing but perception was J. E. Hoover's reaction to his boss's directive that he terminate an illegal program being run by the FBI during WWII. The FBI–the biggest criminal organization in America after the Mafia–maintained a list of potentially subversive people who could be swept up and detained at a moment's notice. In a letter of July 16, 1943, wartime Attorney General Francis Biddle ordered Hoover to discontinue this "Custodial Detention" list, and Hoover obligingly and dutifully complied by changing the sign on the door. The "Custodial Detention" list was discontinued but the program–relabelled the "Security Index"–remained, thus displaying Hoover's PR penchant/talent for appearing to follow orders.[28]

This was a criminal act of defiance against his boss by the nation's leading law enforcement officer, who made a career of criminal conduct as a law unto himself, operating without authorization, approval or integrity. Biddle's successor, Tom Clark, reauthorized the program in 1945, and, in an act of legislative congruence, in 1950, Congress passed the McCarren Act, (aka the Emergency Detention Act) which mandated

c As Lenny Bruce noted, the "Halls of Justice" is an appropriate term because the only place you get justice is in the halls. (McWilliams. 206.) On the other hand Josiah Quincy ca 1800 noted legislative matters were settled somewhere other than in the halls of Congress.

most of what Hoover had been doing all along.[d] During the hearings before its passage, Hoover appeared and supported the pending legislation without mentioning that the program being considered essentially already existed[29] albeit without legal basis.

Supporting the pending legislation was one thing; obeying the law once it was passed was another. The problem for Hoover was that the law was too weak; he much preferred the more stringent program he already had in place. Accordingly, in 1952, he prevailed upon then Attorney General, Gen. J. H. McGarth, to give the FBI written *approval to violate the new, civil rights-respecting law.*[30]

To carry the charade one step farther, when the weak McCarren Act was repealed in 1971, Hoover felt deprived of statutory cover for his unconstitutional list of subversives. Consequently, he sought and obtained authorization from Attorney General John Mitchell–who claimed an inherent right to wiretap without court orders and advocated preventive detention of suspects[31]–to continue his nefarious practice of investigating people not even accused of criminal conduct.[32] Repeating himself if not history, Hoover relabelled the Security Index the Administrative Index–ADEX, and the program of listing alleged subversive continued unabated.[33] It really did not matter what Congress passed or repealed: the FBI was going to list subversives with the blessing of the presiding Attorney General, whoever he was. When defying Congress, however, Hoover was savvy enough to be sure to have the Attorney General provide him with written authorization for the FBI's continuing criminal activities.[e]

The same name-game tactic was used when the term CO-INTELPRO (Counter-Intelligence Program) was exposed in April, 1971. The program was designed by homosexual[34] mor-alist Hoover as an end run around the Supreme Court ruling in 1956 that membership in the Communist Party was not a crime in itself. Fearing anyone who thought differently from himself and regarding anyone who questioned government policy a Communist,[35] he designed the program to harass not only that party but subversive organizations like the unions, pacifist groups, anarchists, racial justice groups, the Socialist Workers Party, the Puerto Rican Independent Movement, the Black Liberation Movement, the New Left, the American Indian Movement, the KKK (at LBJ's insistence) and, worst of all, critics of the FBI.[36]

In his crusading, vengeful zeal, our chief law enforcement officer–as a living refutation of the theory of cognitive dissonance–created illegal programs of institutional terrorism which targeted blacks, intellectuals, artists, professors, scientists and the clergy. Similar to being black, being an intellectual automatically qualified one as a potential subversive, and the FBI's Least Desirable List became so inclusive that being omitted from it was almost an insult–an indication of irrelevance. It included virtually all the biggies of the time: Lewis, Buck, Faulkner, Hemingway, Steinbeck, Capote, Mann, Sandburg and Sartre[f] etc.–everyone but Anonymous and Mailer. Einstein was honored by inclusion not as a writer but as a scientist[37] per-haps for practicing pink science on red particles.

As for specific treatments of the targeted non-intellectuals, laxative laced oranges were provided

d In this era, Hoover often passed information on to Senator Joe McCarthy–who took the lead in Red-baiting which led to the sacking of 9,500 civil servants and the resignations of 15,000 more (Knightley. 273)–and to the infamous House on UnAmerican Activities Committee. Although a Congression-al committee, its role was not to discover subversives nor

legislate but to stigmatize people whose views and actions were deemed suspect by our self-righteous guardians of liberty. If absurdity can be amusing, on Feb. 6, 1947, the committee attempted to establish that one Gerhart Eisler composed and played Communist music. (Stone, G. 357.) It also asked of those it could if they owned or had read books by Lillian Hellman, Dorothy Parker or Karl Marx. (**Ibid.** 373.) Even so, the HUAC paled in comparison to the GIA–the Islamic Group of Algeria, which killed people suspected of unIslamic activities. (Mellah. Cited on page 74 of Hammer.) Heil Allah!

e Hoover served under sixteen Attorneys General only one of whom (Biddle) even tried to rein him in, and he was ignored (Medsger. 245.) as was Congress. Hoover was a law unto himself.

f When Nobel laureate Jean-Paul Sartre took an interest in the assassination of JFK, Hoover wrote on a memo, "Find out who Sartre is". (Medsger. 356.)

to war-protesters; STD infected prostitutes were provided to Fair Play for Cuba supporters; a quart of distilled pig feces–just add water, was slated for distribution at the Black Panther headquarters in Detroit, but the operations was cancelled; however, a diagram of Black Panther Fred Hampton's apartment was provided to Chicago police snipers and led directly to his death in 1969;[g] and Rev. Martin Luther King, jr., whom Hoover deeply hated, was taunted to commit suicide.[38]

As for the Social Workers Party, it was presumed to be prone to violence, so it was kept under surveillance and subjected to dirty tricks. When members learned in 1973 they had been targeted by the Bureau, they sued the government for violating their constitutional rights. In 1986, Bureau lawyers asserted that radical ideas inevitably led to violence–that being the rationale for keeping tabs on the peaceful, law-abiding organization for *forty years*. In the years 1960-1966 alone, teams of twelve agents conducted at least 92 burglaries–one every three weeks. Needless to say, they had no legal rights to any of the 10,000 documents they photocopied and stole. Individual party members were harassed and physically attacked in their offices, and one office was shot at. While an investigation of these ac-tivities was underway, the Bureau officials continued to try to hide the truth.[39]

The COINTELPRO program clearly undermined democracy, violated the law and subverted the Constitution,[40] but otherwise, it was just jake. Originally created to cope with the menace of the Communist party, it was eventually dismissed as silly, ridiculous, mindless and stupid.[41] However, that downplayed its undeniable negative impact on so many innocent lives. In fact, if there ever was a subversive organization in America, the FBI was it, but to Hoover, protecting the FBI was protecting his way of life. He saw the lawless Bureau as the bulwark against lawlessness and the disintegration of American values if not virtue. The FBI had the mission of setting things right again, which meant not only relabelling and linguistic elasticity but engaging in criminal conduct by the government in the name of order if not the law.[42] The Bureau had the added ad-vantage of being used by FDR, LBJ, Nixon and Reagan to spy on their political enemies.[43]

One of the most egregious cases was not a matter of "Intelligence" but criminal in nature: the FBI all but staged a murder and arranged to have four innocent men take the fall for it. The Bureau knew of the planned crime and let it happen and then coached an informant to lie on the stand regarding the identities of the perps. *For forty years*, the Bureau then blocked all attempts of those falsely convicted of the crime to gain access to evidence which would have exonerated them. When the material was finally made available to them in 2004, the two surviving victims and the families of the others received $102 million in compensation.[44]

Tellingly, no one in the Bureau ever asked about the constitutionality much less the ethics or morality of any of its programs. The only concern was pragmatic: would it work? Would it yield the desired results?[45] No one asked if someone had committed a crime. In legalese, the second term in the "Elastic clause" of the Constitution was dropped: No one was concerned with propriety.[46] If it was necessary, it was proper: That is, a program gained propriety from its presumed necessity. Further, once a case was set up, it remained operative even when the conditions at its founding changed[h] so that the threat disappeared.[47] No doubt, the greatest danger to law and liberty comes from zealous, people with no understanding[48] of Constitutional rights or limitations on their powers, and *they do not want to understand them*. This leads inexorably to the oxymoronic maxim "We need protection from the government" which is staffed by officials who get off on pushing hapless people around.

And push they did. When, during WWII, Hoover perceived a particular organization as a threat, he complied a dossier on its leader, infiltrated it with spies and sabotaged its operations: And what was this ominous organization? The OSS–the forerunner of the CIA,[49] which might have committed the ultimate political sin–encroaching on the FBI's territory.

Basically, a culture of lawlessness developed and prevailed among agents who had not a single scruple to their discredit.[50] This constitutes the opposite of what anyone and especially adherents of the theory of cognitive dissonance would expect–that law enforcement officials would abide by the law.[51] They

g Geronimo Pratt served 27 years in prison for the murder before his sentence was overturned because the FBI had withheld evidence at the trial and an agent had lied on the stand. (Medsger. 347.)

h After a review of all cases made in the summer of 1976, only 636 of 4,868 case–that is 13%–were continued. (Meds-ger. 380.)

did not, and if there was any dissonance expressed in this regard, it was when someone pointed out their criminal conduct. Being criminals was fine, but no one was allowed to *say* they were criminals: That was taboo. Hence, the active policy of ignoring the Constitution and the law was furthered by an assumption of eternal secrecy:[52] Presumably, no one would ever know unless someone had the temerity to label a given program accurately,[53] which essentially never happened. Consistent with that, as Alexander Hamilton noted in 1787 (paraphrased), 'the people are most in danger when the means of abusing their rights are in the hands of those toward whom they entertain the least suspicion'.[54]

Conclusion

Certainly, no one suggested or suspected Hoover would abuse anyone's rights[i] or that the FBI was incapable of controlling its own criminal conduct. It had nothing to do with law enforcement: its purpose was to ruin the reputations if not the lives of "Subversives".[55] Like the Security Index program, it was ordered shut down but continued under new names.

One of the new names was "FISA"–the Foreign Intelligence Surveillance Act which allegedly regulates security related wiretaps, but Hoover lives on insofar as the FBI abuses its power. None other than the Justice Department's Inspector General has cited hundreds of cases where the bureau acquired records of innocent American citizens without warrants by knowingly misstating facts–i.e., lying, aka perjury.[56]

References

[1] Mackay, C. 1852. **Extraordinary Popular Delusions and the Madness of Crowds**. 2nd ed. [Republished by Harmony Books; New York. 1980. 651-652.]

[2] Morgan, E. 1935. In a review of **Trial Techniques** by Irving Goldstein. **Harvard Law Review**; 49, 1387-1389. Grace, N. 2005. **Objection**. Hyperion; New York. 109.

[3] Frost, R. Undated citation on page 207 of P. McWilliams. **Ain't Nobody's Business If You Do**. Prelude Press; Los Angeles, CA. 1993.

[4] Morris, R. 1967. **Fair Trial**. Harper & Row; NY. xii.

[5] Freedman, L. Oxford University Press; New York. 2013. 326.

[6] Mishra, P. **Age of Anger**. Ferrar, Straus and Giroux; New York. 2017. 95. (A comment attributed to J-J Rousseau.)

[7] Mencken, H. Quoted on page 220 of C. Horner"s **Red Hot Lies**. 2008. Reg-nery; Washington, D.C.

[8] Morgan, E. **The Puritan Family**. 1644. Quoted on pp. 41-42 of Davis, K. **Don't Know Much about the Bible**. Harper; New York. 2009. In 1635, Roger Williams founded Rhode Island based on the separation of church and state (Sass. p. 9.)–a principle unthinkable to others of the time.

[9] Lundberg, F. 1980. **Cracks in the Constitution**. Lyle Stuart; Secaucus, NJ. 236.

[10] Ibid. 237.

[11] Record, G. 1936. **How to Abolish Poverty**. The George L. Record Memor-ial Association; Jersey City, NJ. Chapter 1.

[12] Brandeis, L. 1920. **Gilbert v Minnesota. 254 US 325**. For a general dis-cussion, see Urofsky: 280ff. To be unnecessarily subtle, the third (quartering troops) and seventh (trial by jury) have not yet been incorporated. (**Ibid.** 285.)

[13] Lieberman, J. 1973. **How the Government Breaks the Law**. Stein & Day; New York.

[14] Carnegie, D. **How to Develop Self-Confidence & Influence People by Public Speaking**. Gallery Books: New York. 1956. 144.

[15] Burns, J. **Roosevelt: The Soldier of Freedom.** Harcourt, Brace, Janonovich; New York. 1970. 216. Phillips, C. 1975. **The 1940s: Decade of Triumph and Trouble**. Macmillan; New York. 110.

[16] Irons, P. **Justice at War**. Oxford; New York. 1983. p. 59. A thought echo-ed by Walter Lippman. The Fifth Column on the Coast. **Washington Post**. Feb. 12, 1942. 9.

[17] O'Reilly, B. and Dugard, M. **Killing the Rising Sun**. Henry Holt; New York. 2016. p. 62fn. The worst decision was *Dred Scott* (1857)–that blacks are not citizens, and the second worst was Plessey vs. Ferguson (1896)–separate can be equal.

i In this sense, it repeated the inanity of the federal agencies which investigated five million employees during the Truman administration without finding a single instances of espionage. (Leuchtenburg. 297.)

[18] Goodwin, D. **No Ordinary Time**. Simon & Schuster; NY. 1994. 296.

[19] Stone, O. and Kuznick, P. **The Untold History of the United States**. Gal-lery Books; New York. 2012. p. 152.

[20] Stone, G. **Perilous Times**. Norton; New York. 2014. 296.

[21] Breyer, S. (Supreme Court Justice) **The Court and the World**. Vintage Books; New York. 2016. 18. Lincoln and FDR both chose the Union/country over the Constitution and so, probably, will any president given that choice.

[22] Schlesinger, Jr., A. 1973. **The Imperial Presidency**. Houghton Mifflin; Boston, MA. 116.

[23] Turley, J. The Reason We're No Longer the Land of the Free. **Washington Post**. Jan. 15, 2012.

[24] Murphy, F. Jus. Concurring opinion in **Hirabayashi v. United States**. 1943. Murphy originally wrote his opinion as a dissent but was persuaded by Justice Frankfurter to cast it as a concurring opinion. Fairly put, it is a negative concurrence.

[25] Black, Jus. H. 1944. **Korematsu v. United States**. 323 US2 14, 233.

[26] Bidinotto, R. 1989. **Crime and Consequences**. Foundation for Economic Education; Irvington-on-Hudson, NY.

[27] McWilliams, P. **Ain't Nobody's Business If You Do**. Prelude Press; Los Angeles, CA. 1993. 227.

[28] Medsger, B. 2014. **The Burglary**. Vintage Books; New York. 525.

[29] Ibid. 254-256.

[30] Ibid. 258.

[31] Leuchtenburg, W. **The American President**. Oxford University Press; New York. 2015. 474.

[32] Medsger**. op. cit.** 264.

[33] Ibid. 265.

[34] Werbaneth, J. Retaining J. Edgar Hoover. Fawcett. 2016. 205. A good gen-eral piece on the abuses of the FBI.

[35] Medsger**. op. cit.** 438.

[36] Ibid. 344 and 529. Hoover hated Slavs, Jews, Catholics, Liberals, blacks and homosexuals– although he was one. (Knightley. p. 150.) So perhaps, like Hitler, he hated himself. As for the Socialist Worker's Party, the FBI certainly was committed and determined. Over thirty-eight years, the obsessive bureau engaged thirty in-formers and, between 1960 and 1976, amassed 8 million file entries without filing a single criminal prosecution. (Stone, G. **op. cit.** 497fn.)

[37] Medsger**. op. cit.** 353. Under President Nixon, the IRS was invited to the party and investigated, among others, columnist Joseph Alsop, journalist Jim-my Breslin, New York Mayor John Lindsey, U.S. Senator Charles Goodell, ac-tress Shirley McLaine, and folk singer Joan Biaz. (Stone, G. **op. cit.** 493.)

[38] Medsger**. op. cit.** 346 and 342.

[39] Ibid. 367-369.

[40] Schwartz, F. Special counsel to the Church Committee. 1975. Quoted on page 344 of Medsger.

[41] Welch, N. Quoted on pages 376-377 of Medsger.

[42] Ungar, S. Quoted on page 365 of Medsger. And Medsger. **op. cit.** 529.

[43] Medsger. **op. cit.** 498. Not to be outdone, the CIA indulged in extensive criminal conduct against American citizens with Operation Chaos in the late '60's (Hersch.) and, re relabelling, refrained from assassination when it was banned by President Ford in 1976 by switching to "Targeted killing" (Scahill. 6.). Likewise, in the '80's, "Covert operations" were dropped in favor of "Spe-cial activities". (Knightley. p. 366.)

[44] Medsger. **op. cit.** 370-373.

[45] Sullivan, W. Head of the FBI's Domestic Intelligence Division testifying before the Church Committee. 1975. Quoted on pp. 345-346 of Medsger.

[46] Church Committee. 1975. Final report. Quoted on p. 346 of Medsger.

[47] Medsger. **op. cit.** 380.

[48] Brandeis, L. 1928. **Olmstead v. United States**. Dissenting opinion. (Quot-ed on page 20 of Urofsky.)

[49] Brown, C. **Last Hero**. Times Books; New York. 1982. 233-234.

[50] Medsger. **op. cit.** 352-353. Stone, G. **op. cit.** 490–*a litany of crimes committed by your friends at the FBI.* Btw, the "F" does not stand for "Federal".

[51] Medsger. **op. cit.** 352.

[52] Schwartz. **op. cit.** 346.

[53] Walzer, M. 1977. **Just and Unjust Wars**. Basic Books; New York. 295.

[54] Hamilton, A. Dec. 1787. **Federalist** No. 25. 164.

[55] Theoharis. A. Quoted on page 370 of Medsger. Sad to say, the same indict-ment can be made of the extensive, intrusive post-9/11NSA surveillance pro-gram: It gathers everything about everybody but yields next to nothing of value in the war against terror. (Medsger. 519.) It is just a bunch of control-freaks playing with their toys because they can. In fact, there seems to be a law of inverse effectiveness at work here–the wider open the investigative powers are, the LESS likely they are to produce useful information. Unfocused, dysfunc-tional programs exercised by anal-retentives do not yield good data.

[56] Eggen, D. FBI Found to Misuse Security Letters. **The Washington Post**. Mar. 14, 2008. It grieves me greatly that it is a crime for a citizen to lie to the police but acceptable for the police to lie to a citizen. The playing field should be level. Btw, I once asked an ex-con to estimate the percentage of innocent people in prison, and he replied, 1-2%, so we must allow the system is pretty good at convicting just the people who deserve it.

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