

the questioning of Mr. Katzenbach and has disqualified himself from any preparation in the questioning of Mr. Katzenbach, in that he has represented Mr. Katzenbach on occasion in a legal connection.

Gentlemen, would you rise and be sworn, please? Do you solemnly swear that the testimony you're about to give before this committee is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. CLARK. I do.

Mr. KATZENBACH. I do.

Senator TOWER. Do you gentlemen have counsel with you?

Mr. KATZENBACH. No. I have friends who are lawyers here, but I'm not being represented by counsel.

Senator TOWER. And you, Mr. Clark?

Mr. CLARK. No, I'm here by myself.

Senator TOWER. We will first hear opening statements by the witnesses. Mr. Katzenbach, you may proceed if you wish.

### TESTIMONY OF NICHOLAS deB. KATZENBACH

Mr. KATZENBACH. Thank you, Mr. Chairman. As you know, I have submitted a long statement to the committee and I would like now just to read a brief summary of it.

Senator TOWER. Your full statement will be printed in the record and you may summarize if you like.

Mr. KATZENBACH. Thank you, Mr. Chairman.

[The prepared statement of Nicholas deB. Katzenbach follows:]

#### STATEMENT OF NICHOLAS deB. KATZENBACH, FORMER ATTORNEY GENERAL OF THE UNITED STATES

Mr. Chairman and members of the select committee, this committee has uncovered and publicly exposed activities of the Federal Bureau of Investigation which were unlawful, grossly improper and a clear abuse of governmental authority. According to the testimony before this committee, some of those activities took place while I was Attorney General or Deputy Attorney General.

Some of those revelations have surprised me greatly. Some, such as the extent of the FBI's attempt to intimidate, to harass and to discredit Dr. Martin Luther King have shocked and appalled me. Those activities were unlawful and reprehensible. They served no public purposes. They should be condemned by this Committee.

My surprise and shock stem more from the fact that these activities occurred with the apparent knowledge and approval of J. Edgar Hoover than from the fact that I, as Attorney General or Deputy Attorney General, was unaware of them. Mr. Hoover dedicated his life to building a Federal Bureau of Investigation which enjoyed a great and deserved reputation for integrity, efficiency and dedication to public service. Even in a world which he believed was questioning and rejecting some of the values which Mr. Hoover so esteemed—patriotism, respect for law, sexual mores grounded in marriage and family, the work ethic, I would not have expected him to risk the Bureau's reputation—his life's work—by resorting to unlawful or improper tactics.

I was aware of the fact that the Director held political views far more conservative than my own or those of the administrations which I served. I knew that on occasion he promoted those views on the Hill, without consultation with me and sometimes in opposition to administration policy. I knew the intensity of his views on the dangers of communism, on the decline of moral standards, on the evils of permissiveness, on the lack of respect for law and order. I knew that as Mr. Hoover grew older and the country changed—for the worse, in his view—the intensity of those feelings and his frustration at what was taking place grew. I knew that Mr. Hoover was extremely sensitive to any criticism whatsoever and that he deeply and personally resented public criticism by civil rights leaders, and especially that made by Dr. King.

I knew all these things, and so, I believe, did the Congress, the press and much of the public at large.

As background, I think that it is important that I recall that some of the Bureau's activities being investigated by this committee have long been a matter of public record. Many of them are well known to any schoolboy. Others were discussed in executive session every year in the Director's annual appearance before the House Appropriations Committee. Much of what apparently constituted the concern and focus of the so-called COINTEL Program was discussed by Mr. Hoover in testimony before the Violence Commission in 1968. Still other activities have been written about in books and periodical literature and have long been the subject of public comment and interest.

For example:

#### *1. Domestic Intelligence Activities*

The Bureau's responsibility includes domestic intelligence activities. Mr. Hoover annually described those activities to the House Appropriations Committee. The bulk of that testimony was off the record. Nevertheless, it is clear that each year at budget time, the Congress had ample opportunity to explore those activities in some depth with Mr. Hoover.

#### *2. Use of Confidential Informants*

It has never been a secret that the FBI has used a substantial number of confidential informants to assist in its criminal and subversive activities investigations. Mr. Hoover annually disclosed that fact to Congress. In 1959, for example, Hoover testified that "it is obvious that maximum results cannot be obtained without informants in the criminal and subversive fields. The record shows the value of these informants in bringing to justice the criminal and the subversive." (Testimony of J. Edgar Hoover before House Appropriations Committee, February 5, 1959, p. 271.) In 1960, Hoover testified that the Bureau's confidential informants supplied information that led to the arrest of over 1,800 suspects and the recovery of more than \$2 million in contraband and stolen property in just one fiscal year alone. In addition, information obtained by the Bureau from its confidential informants led directly to the arrest of more than 2,000 suspects by state, local and other law enforcement organizations. (Testimony of J. Edgar Hoover before House Appropriations Committee, February 8, 1960, pp. 339-40.) Ever since the publication of *I Led Three Lives*, it has been common knowledge that much of the Bureau's knowledge of Communist Party activities came from inside information. Indeed, Art Buchwald wrote a brilliant parody of the extent of this activity in one of his more famous columns.

#### *3. Files*

The fact that the FBI maintained extensive files on individuals has also been well known. For example, Mr. Hoover informed Congress in 1960 that the FBI maintained, in its central record file, over five million files and over 47 million index cards. Those files, according to Hoover's testimony, were kept pursuant to the Bureau's "responsibility of coordinating and disseminating security and intelligence data. . ." (Testimony of J. Edgar Hoover before House Appropriations Committee, February 8, 1960, p. 369.)

#### *4. Wiretaps and Electronic Surveillances*

##### *(a) Wiretaps*

Ever since FDR's claim of a governmental right to tap telephone conversations, the fact of governmental use of this technique, at least in internal security matters, has been known to the Congress and to the public. Congressional Committees have often inquired as to the number of taps, and Mr. Hoover regularly gave this information to the House Appropriations Committee. It was also public information that the Department's procedures required that all wiretaps be personally approved by the Attorney General, and this was in fact the practice. There was not, however, any procedure for following up on authorizations until March 30, 1965, when I established a new procedure requiring re-authorization every six months and notice to the Attorney General of any termination. Nor, until President Johnson's directive of June 30, 1965, was there any similar control over wiretaps by agencies other than the FBI. That directive required all federal departments and agencies to obtain the written authorization of the Attorney General for any wiretap.

*(b) Electronic Surveillances*

Curiously, "bugs," which in my judgment are far more serious invasions of privacy than are taps, were not subject to the same authorization procedure in the Department of Justice until I so directed on March 30, 1965. Theretofore, the Bureau had claimed an authority to install bugs at its sole discretion under a memorandum from then Attorney General Brownell dated May 20, 1954. I thought the claim that Attorney General Brownell's memorandum authorized the widespread use of bugs was extremely tenuous. The Attorney General's personal approval was not sought nor was he even directly advised of any microphone surveillance despite their increased use through the late 1950's and early 1960's. Neither Mr. Kennedy nor I was aware of their use by the Bureau until just before Mr. Kennedy resigned his office in September 1964, though in retrospect it may be fair to say that we probably should have inferred its existence from memoranda we received, and Mr. Hoover may have believed we did in fact know. Unlike wiretaps, the Congress and the public were not, so far as I know, generally aware of this practice.

*5. Use of Mail Covers*

A mail cover is a procedure by which information on the outside of mail, such as the address of the sender, is recorded. It is a well-known procedure, and has been approved by the courts when carried out in compliance with postal regulations on a limited and selective basis. The use of such an investigative technique was fully disclosed by the Long Committee hearings in 1965 and indeed that Committee published the numbers of requests made to the Post Office Department by the FBI as well as by other Federal agencies.

*6. Investigation of the Ku Klux Klan*

The Bureau's intensive investigation of the Klan's criminal activities in the South in the mid-1960's has also been well-known and widely reported. Indeed, the fact that 153 FBI agents were thrown into the successful Goodman, Chaney, Schwerner murder investigation in 1964, the fact that that investigation had the Klan as its principal focus and the fact that most of those ultimately convicted were associated with the Ku Klux Klan are all facts that have been fully disclosed not only in the press, but even in books and movies. Don Whitehead's book, *Attack on Terror*, published in 1970, contains a thorough description of the FBI's extensive use of confidential informants inside the Klan as an integral part of that investigation.

Being in the Department of Justice I was, perhaps, more aware of and conscious of the above practices and some of the problems they raised than others may have been. There was, especially in the area of civil rights, a good deal of tension between the Director on one hand and the Attorney General and his principal assistants on the other. I was very conscious of the fact that there was often a lack of candor in relationships between the Bureau and the Department; that Mr. Hoover was opposed to many of the views of Mr. Kennedy, Mr. Clark and myself, and that he expressed his views privately, and occasionally publicly; that the Bureau leaked stories to the press which were embarrassing to me and to my predecessor. I did occasionally pursue those leaks but the Bureau invariably denied that it was the source.

Having said that, let me say that I did respect the Bureau's reputation for integrity and propriety in law enforcement matters and that it never occurred to me that the Bureau would engage in the sort of sustained improper activity which it apparently did.

Moreover, given these excesses, I am not surprised that I and others were unaware of them. Would it have made sense for the FBI to seek approval for activities of this nature—especially from Attorneys General who did not share Mr. Hoover's political views, who would not have been in sympathy with the purpose of these attacks, and who would not have condoned the methods?

The Director of the FBI is a subordinate of the Attorney General. In the 1960's J. Edgar Hoover was formally my subordinate; indeed, I had the formal power to fire him. Mr. Hoover was also a national hero, and had been for 30 years or more. I doubt that any Attorney General after Harlan Fiske Stone could or did fully exercise the control over the Bureau implied in that formal relationship. It is also important to note that Mr. Hoover had great "clout" in the Congress and with the Presidents he served. That position resulted naturally from his great public reputation and the respect which members of Congress and Presidents had for him and for the Bureau. I do not think the practices this Committee has

brought to light could have been exposed other than by Congressional investigation. It is also true, I suggest to the committee, that a Congressional investigation of the Federal Bureau of Investigation was not a political possibility during Mr. Hoover's tenure as Director, not simply because of his enormous and unique public prestige and power, but also because of the Bureau's reputation for total integrity. Certainly, no such investigation was conducted during Mr. Hoover's tenure.

Anyone contemplating an investigation of Mr. Hoover's Bureau would have had to face the strong likelihood that Mr. Hoover would have vigorously resisted. At least he would have asserted that the investigation was unnecessary, unwise and politically motivated. At worst he would have denounced the investigation as undermining law and order and inspired by Communist ideology. No one risked that confrontation during his lifetime.

Those points are key to understanding the role of the Attorney General in "supervising" Mr. Hoover and the Bureau. I can think of no career public servant who even approached Mr. Hoover's stature in the public eye or with the Congress. Under Mr. Hoover, the FBI became the finest investigative agency in the world. Absent strong and unequivocal proof of the greatest impropriety on the part of the Director, no Attorney General could have conceived that he could possibly win a fight with Mr. Hoover in the eyes of the public, the Congress, or the President. Moreover, to the extent proof of any such impropriety existed, it would almost by definition have been in the Bureau's possession and control—unreachable except with Bureau cooperation. This Committee has heard testimony that the Director ordered that certain files were not to be released outside the Bureau, and that certain others were kept personally by Mr. Hoover and were destroyed at his death.

Let me emphasize briefly some further considerations. Mr. Hoover exercised total control over the Bureau and its personnel and brooked no interference with that process. He demanded total loyalty and enforced total dedication to the Bureau and to himself as Director. Agents had no job protection from Civil Service or otherwise: they were reprimanded, demoted, reassigned, and dismissed at his direction. Complaints by the agents—and certainly public complaints or complaints to the Attorney General—were not tolerated, and given Mr. Hoover's political position would have had little prospect for success.

Mr. Hoover's total control over personnel and management was reenforced by encouraging predominantly formal relationships with those outside the Bureau, including the Attorney General and his principal subordinates. Mr. Hoover normally dealt with the Attorney General in writing, personally, or through a designated liaison officer. He maintained discipline and control by actively discouraging efforts by the Attorney General to deal directly with agents in the field or anyone in the Bureau other than himself and his principal assistants.

Mr. Hoover was proud of the absence of partisan political interference in the work of the FBI. His absolute control was in fact a protection against politically motivated investigations by a politically minded Attorney General or a politically appointed United States Attorney. At the same time, keeping the Bureau free from political interference was a powerful argument against efforts by politically appointed officials, whatever their motivation, to gain a greater measure of control over operations of the Bureau.

The Committee should remember also that the Bureau is an extremely important resource of the Department and key to its success. No Attorney General can carry on the work of the Department without the full cooperation and support of the FBI. Animosity between an Attorney General and the Director was a losing proposition for the work of the Department and for the success of the Administration—as well as for the Attorney General involved. Certainly I sought in many ways to avoid, wherever possible, too direct a confrontation.

Whenever the Bureau came in for public criticism, as it occasionally did, Mr. Hoover could count on a defense and expression of confidence by the Attorney General. He found great value in his formal position as subordinate to the Attorney General and the fact that the FBI was a part of the Department of Justice. He was very conscious of the fact that an independent Federal Bureau of Investigation would be far more vulnerable to public suspicion and public criticism than one formally under the control of the Attorney General. In effect, he was uniquely successful in having it both ways: he was protected from public criticism by having a theoretical superior who took responsibility for his work, and was protected from his superior by his public reputation.

Mr. Hoover was a permanent fixture in government; Attorneys General came and went. Surely he must have, with some justification, regarded Attorneys General as rank amateurs in the investigative techniques in which the Bureau was so expert. While he accepted their view of the law with respect to prosecutions, he controlled both the resources and the methods of investigation. While he was enormously sensitive to any accusation that a particular activity was not authorized by the Department, this did not mean that the incumbent Attorney General or any of his principal subordinates knew of the activity. As far as Mr. Hoover was concerned, it was sufficient for the Bureau if at any time any Attorney General had authorized that activity in any circumstance. In fact, it was often sufficient if any Attorney General had written something which could be construed to authorize it or had been informed in some one of hundreds of memoranda of some facts from which he could conceivably have inferred the possibility of such an activity. Perhaps to a permanent head of a large bureaucracy this seems a reasonable way of proceeding. However, there is simply no way an incoming Cabinet officer can or should be charged with endorsing every decision of every predecessor, and particularly those decisions which even the predecessor did not know he was making.

Let me briefly cite an example. The Bureau used terms of art, or euphemisms, without informing the Attorney General that they were terms of art. I do not think it is excessively naive to assume that a "highly reliable informant" was precisely that, and not a "bug". Why were such euphemisms used? I don't know, but one of the results of their use was to make precise communication difficult. The extremes to which the FBI would go in charging an Attorney General with knowledge of its activities based on the use of such euphemisms came most dramatically to my attention in connection with papers filed in the Supreme Court in the *Black* case in 1966. That case involved the use of a "bug" and I strongly urge the Committee to review my correspondence with the Director on that occasion—a correspondence which, incidentally, led to precisely the kind of confrontation which persuaded me I could no longer effectively serve as Attorney General because of Mr. Hoover's resentment towards me.

I do not think informing the head of a Department is or ought to be a guessing game. Responsible subordinates know or ought to know when a particular policy or practice is, in the circumstances, questionable, and should seek guidance from their superiors. The process of government should not depend on guess or inference when it is easily open to the process of inquiry, recommendation and decision. It was not my practice, and I believe not the practice of others in the Department of Justice, to avoid difficult decisions by looking the other way or by using ambiguous language which left subordinates free to act as they chose. I did not seek to be left with a "plausible denial".

But perhaps more important than all the foregoing was the simple fact that while I did not in all respects share the public adulation of Mr. Hoover, I did respect the Bureau's reputation for integrity and propriety.

I would like to turn to three areas in which, I understand, the Committee has particular interest: the opening of mail; the so-called COINTEL program, particularly regarding the Klan and the Communist Party; and the FBI's activities with respect to Dr. King, including wiretaps and bugs. In this connection I am sure that the Committee appreciates that I have had to depend largely upon my recollection of events taking place some ten years ago. To assist this recollection I have had access to my own calendars, to the recollection of a few colleagues, and to the few documents provided to me by the Committee staff. I have spent some substantial time trying to reconstruct events and to refresh my recollection, but obviously I make no claim that my recollection is complete or in all cases precisely accurate. It is simply my best recollection.

#### I. OPENING OF MAIL

The press, and perhaps the Committee staff, have drawn an inference from certain internal FBI memoranda (not previously available to me) that I was aware of the FBI's program with respect to mail opening in violation of law. That is not the fact. I do not recall any such program and had I been made aware of such a program, I am sure that I would recall it since I would not have tolerated it.

Let me discuss the documents involved and the surrounding circumstances: The first document is an internal Bureau memorandum from Mr. D. E. Moore to Mr. W. C. Sullivan, apparently viewed by Mr. Hoover, and dated October 2,

1964 [see Exhibit 71<sup>1</sup>]. That memorandum discusses the case of *USA v. Baltch*, an espionage case then going to trial on October 2, 1964—the date of the memorandum—in the Eastern District of New York. It reveals that a “mail intercept”—an FBI euphemism that the Committee staff tells me meant an unlawful mail opening<sup>2</sup>—had been utilized in the case; that Department lawyers had not theretofore been informed of the fact of this tainted evidence; and that the Bureau would rather drop the case than to admit to the existence of the “intercept”. The case was in fact dropped that day, at my direction, on the ground that it could not be further prosecuted without revealing national security information. From those facts the inference is drawn that I was personally aware of the opening of mail, and directed that the case be dropped for that reason. That inference is not correct.

I was not aware of any mail opening in connection with this case. I do recall that prosecuting the case raised two problems: (1) the repatriation of certain alleged co-conspirators virtually destroyed the case against the Baltches; and (2) there was a bug and, I believe, an unlawful entry into the Baltch apartment. The United States Attorney had not been informed of the bug, despite his inquiries of the FBI, and in fact he had denied its existence in open court on September 28. The next day, the United States Attorney again advised the court that he had checked with the Department of Justice and stated that no leads had been secured from eavesdropping or any other illegal activity. It was not until October 2 that the United States Attorney was advised that there had in fact been a microphone in the apartment. Although he had been assured that no tainted evidence resulted from the bug, when I was informed of the bug and his statements to the court, I directed that the United States Attorney advise the court immediately that his earlier representations had been incorrect. I did this without knowing anything about mail being opened in the investigation.

To understand this sequence of events it is necessary to read Mr. Moore's memorandum carefully, to note that it reports three separate conversations, and to focus carefully on their order. Having done this, it is obvious to me that the first of these conversations, between Mr. Hall and me (reported third hand in the memorandum), took place in the morning of October 2, before the United States Attorney or anyone outside the Bureau was aware of the so-called “mail intercept”, and before any decision had been made to drop the case. Thereafter, Mr. Hall apparently told Mr. Moore that he would pass whatever information he in fact received about the “mail intercept” on to Mr. Yeagley and Mr. Hoey in New York, not to me in Washington. Both of these facts are confirmed by my own calendar, because the only time that I talked with Mr. Hall on October 2 was at 9 a.m. for no more than ten minutes—clearly before he could have received an answer to the inquiry about the “mail intercept”. In other words, I was quite aware of difficulties in pursuing the prosecution—though the Bureau was pushing it and I hoped it could be done—quite apart from, and indeed before I could possibly have known of, the additional problems raised by the so-called “mail intercept”.

My calendar reflects that I talked with Mr. Hoey twice on October 2, and that accords with my recollection. The first time was, on his recommendation, to authorize him to dismiss the crucial counts in the indictment; the second time was to find out how this had been received by the Judge, and what publicity we were likely to get.

If I learned about any mail opening in this case on October 2 I had to learn about it from the United States Attorney because my calendar reflects that he is the only person I talked with who was knowledgeable about the case after my early morning discussion with Mr. Hall. Neither he nor the Assistant Attorney General, both of whom were familiar with the case in a detail that I was not, have any recollection of being told about mail opening in connection with this matter on that date or previously. Their recollection accords with my own. Mr. Moore, as I read his testimony, believes that he did tell Mr. Yeagley about a “mail intercept” but does not know if Mr. Yeagley knew that that term meant mail opening. Given all the circumstances of that case, I frankly doubt that Department lawyers were in fact advised about mail opening. It would have been sufficient for the Bureau to have told them that there were problems in the case

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<sup>1</sup>See pp. 828 through 835.

<sup>2</sup>I do not recall ever having previously heard the term “mail intercept” and certainly not its use in connection with any mail opening. In this statement I accept the staff's definition although I query whether “mail intercept” was used only to describe mail openings.

arising from an unlawful entry and an unlawful search and seizure and that, under the circumstances, the Bureau recommended dropping the case. That would be far more consistent, in my judgment, with the Bureau's prior refusal to acknowledge the bug or that there was tainted evidence of any kind in the case. And it would clearly have both satisfied and relieved the United States Attorney who was anything but enamored of the case and its prospects for success.<sup>1</sup>

The other incident concerns the investigation by Senator Edward Long of activities conducted by the Post Office Department, the Internal Revenue Service, and others—not including the FBI. Here, again, there are two internal FBI memoranda that have led to some speculation that I might have been aware of the Bureau's opening of mail. I believe that a little background may be helpful to the Committee in evaluating that correspondence.

Rightly or wrongly, I and my colleagues perceived the investigation by Senator Long as an effort to discredit the Organized Crime Program and the prosecution of James Hoffa, while not taking on the FBI directly. This view is consistent with a handwritten note which appears on Mr. Belmont's memorandum to Mr. Tolson of February 27, in Mr. Hoover's handwriting [see Exhibit 71<sup>2</sup>].

Since 1962 Senator Long had been making inquiries of the Post Office Department about the use of "mail covers". Late in 1964 Senator Long requested that the Post Office Department supply him with a list of names and addresses of all persons on whom mail covers were placed after January 1, 1963. The Postmaster General contacted the Department in this regard, and Assistant Attorney General Herbert J. Miller, wrote him on December 22 that it was inadvisable to disclose such information to the Senator. I discussed this personally with both Mr. Miller and with the Postmaster General.

In January 1965, Senator Long and his staff continued to press for this information, particularly as it involved IRS investigations. During this period<sup>3</sup> I had a number of conversations with the Postmaster General, members of my staff and members of his as to whether the Postmaster General would provide a list of the persons on whom mail covers had been requested. On February 19, in response to a request by the Senator for such a list, the Postmaster General formally declined, stating that "many of the mail covers include names of persons who are being investigated for *national security* reasons or because of their affiliation with syndicated crime. Release of these names would seriously impair the effectiveness of such investigations and could in some cases be inimical to our *national security*." (Emphasis added).

Mr. Montague, the Chief Postal Inspector, testified before Senator Long's Committee on February 23 and 24 regarding mail covers. During the course of that testimony Senator Long directed Mr. Montague to prepare a list of all mail covers in the past two years, and further stated that he would not commit to keep that list confidential. This raised obvious questions of executive privilege (as well as national security), and it is my recollection that it was for that reason President Johnson asked me to coordinate all matters before the Long Committee, as reflected in Mr. Belmont's memorandum to Mr. Tolson of February 27.

During that testimony Mr. Montague stated that mail being covered was never opened or examined, and that such mail was never permitted to be taken out of the post office facility.

On February 27, a Saturday, I met with Mr. Belmont and Mr. Evans. I have no precise recollection of that meeting nor do I recall that Mr. Moore was present. I am, however, content to accept his recollection that he was, as well as his recollection of the meeting. His specific recollection of the meeting is not different from my general recollection of the subject matter. It is Mr. Moore's testimony before this Committee that he has no recollection that "mail openings" were discussed, and that is confirmed by Mr. Evans. Indeed, I am confident that they

<sup>1</sup> Even if one were to conclude that the Bureau did in fact reveal that mail had been opened and that this fact was relayed by the lawyers involved in the case to me, I am certain that that fact would have been revealed by the FBI—and I would have accepted it—as an unfortunate aberration, just then discovered in the context of a Soviet espionage investigation, not as a massive mail-opening program. In that event, nothing would have led me to deduce that the Bureau was, as a matter of policy and practice, opening letters.

<sup>2</sup> See pp. 828 through 835.

<sup>3</sup> I would not wish the Committee to conclude that the Long investigation was the principal focus of my attention at that time. This was the period of voting rights demonstrations in the South, in Washington, and in the Department of Justice building itself. The beatings in Montgomery, the conduct of Governor Wallace, Sheriff Clark and others led to Congressional demands and public demonstrations for troops. It was an extraordinarily tense period—especially for an Attorney General sworn in on February 13.

were never discussed at any meeting I ever attended. I do recall that Mr. Belmont raised a question about the technical accuracy of Mr. Montague's testimony, and I believe that Mr. Moore is correct in his recollection that it did not concern mail openings, but the question of custody. It is my recollection that in some cases the outside of mail might have been examined or even photographed by persons other than Post Office employees. (Indeed, I believe that the *Baltch* case involved a microdot under a postage stamp.) I also recall that in his first testimony before the Committee, Mr. Montague did not mention the fact that certain Internal Revenue Service mail levies resulted in the transfer of mail from the Post Office to the IRS. I have a clear recollection that my evaluation of Montague's testimony was that it was essentially truthful. I could not have arrived at this conclusion if I were aware that mail was being opened by the Bureau.

It seems to me that Mr. Hoover's handwritten note on Mr. Belmont's memorandum strongly confirms the fact that I was not told about the Bureau's extensive program of opening mail which has since been revealed by the Committee. If I had been so informed, it is impossible to imagine Mr. Hoover writing: "I don't see what all the excitement is about."

On March 1, the Postmaster General wrote to Senator Long, again declining to turn over a list of mail covers. Senator Long responded by asking whether executive privilege was being claimed. My diary for that day indicates that I talked with Mr. Hoover, the Postmaster General, personnel on my own staff, saw Senator Long in the late afternoon, talked again with the Postmaster General, and saw his General Counsel that evening. My recollection—confirmed by my dairy—is that all of this was on the subject of "mail covers" and Senator Long's demand for the names of those people subject to them. My diary for March 3 reflects that I again spoke to the Postmaster General, Senator Long, and personnel in the Criminal Division about this problem, and that on March 5 I saw Senator Long's committee counsel in the company of Justice Department personnel. My diary again confirms that the subject was "mail covers".

There is nothing in Mr. Hoover's memorandum of March 2 which differs in any way from my recollection. [see Exhibit 71<sup>1</sup>] That memorandum refers to "mail coverage, et cetera". Although the addressees of that memorandum, I would think, were familiar with the Department's mail opening program, there is no reference in that memo to such a program, or to the fact that I was aware of it. Had I been aware of it, I am sure that such a reference would have been made. Indeed, Mr. Hoover refers to his conversation with me about laxity in the use of mail covers—scarcely the conversation to be expected if it were between two people aware of the Bureau's illegal program with respect to mail openings.

There are two points in Mr. Hoover's March 2 memorandum from which an inference that I knew about mail openings could be taken. The first is to treat the words "et cetera" in the phrase "mail coverage, et cetera" as a code word or euphemism for "mail openings". No one could reasonably suggest such a meaning and certainly it has no such meaning to me. The second is the following passage:

"The Attorney General stated that Mr. Fensterwald [Senator Long's counsel] was present for part of the meeting and Fensterwald had said that he had some possible witnesses who are former Bureau agents and if they were asked if mail was opened, they would take the Fifth Amendment. The Attorney General stated that before they are called, he would like to know who they are and whether they were ever involved in any program touching on national security and, if not, it is their own business, but if they were, we would want to know."

I generally recall the conversation described by Mr. Hoover, but, as is the case with all internal memoranda, it is hard to know whether I concurred in a suggestion made by him or whether I initiated the suggestion, and whether it is accurate in other ways. In addition, it is important to remember that he was writing to people who were privy to information that I was not.

But assuming the accuracy of the memo, it is not consistent with my being aware of the Bureau's mail opening program. Had I been aware of that program, I naturally would have assumed that the agents had been involved in that program, and I would scarcely have been content to leave them to their own devices before Senator Long's Committee. Moreover, it would have been extremely unusual for ex-FBI agents to be interviewed by the Senate Committee staff without revealing that fact to the Bureau. In those circumstances both the Director and I would have been concerned as to the scope of their knowledge

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<sup>1</sup> See pp. 828 through 835.

with respect to the very information about mail covers which the Senator was demanding and which we were refusing, as well as about any other matters of a national security nature. If the witnesses in fact existed (which I doubted strongly), then both the Director and I wanted to know the extent of their knowledge about Bureau programs, and the extent of their hostility towards the FBI. That is a normal concern that we would have had anytime any ex-FBI agent testified before any Congressional committee on any subject.

I do not wish to belabor the point. To infer knowledge on my part is to assume that I was prepared to deceive many of my closest advisers within the Department with respect to the Bureau's mail opening program, to enter into an unlawful conspiracy with the Director and to deny knowledge to the Postmaster General and his staff, to the head of the Criminal Division and his First Assistant, to my own Executive Assistant, and to many others. It also assumes that I was unconcerned about what I would have known to be a flatly untrue statement under oath by the Chief Postal Inspector before a Congressional committee. And at the very moment that I was attempting to bring order into the FBI's program with respect to electronic surveillance, it assumes that I was prepared to condone the opening of mail in flat violation of the statutes. Such a far reaching set of assumptions is to me obvious nonsense. I did none of those things and there seems to me to be no reason to suggest that I did.

One final point. It would be my conclusion from some experience with the FBI's practices that no subordinate of Mr. Hoover's would have told me about the mail opening program without the express authority of the Director himself. That would almost certainly appear in written memoranda. In addition, if I had condoned this practice, I feel confident there would be a memorandum in the Bureau's files expressing my approval in no uncertain terms, pointing out that the Attorney General had "authorized" the mail opening program. Finally, there would be a memorandum in the Bureau files telling me that the program which I had "authorized" had been discontinued, as I understand it was, in 1966. I understand that no such memoranda exist.

## II. THE KU KLUX KLAN AND THE COMMUNIST PARTY

Let me state at the outset that during my term in the Department, to the best of my recollection, I never heard the terms "COINTEL" or "COINTEL PRO". I was, of course, familiar with the fact that the FBI had responsibility within the United States for counterintelligence and investigation of subversive activities. That the Bureau gathered intelligence with respect to the Communist Party and other organizations deemed to be "subversive", or potentially so, was throughout this period very well known to the Congress and to the general public. That it engaged in the extensive use of informers in this regard, and employed wiretaps, was also very well-known and had been known and repeatedly described to the Congress by the Director for many years. That it gathered such intelligence, and that in accordance with Executive Orders it disseminated such information to interested government agencies, was also very well-known. In addition to these intelligence activities, and to a degree as part of them, the FBI also had domestic responsibilities for enforcement of espionage statutes and related laws. Indeed, the Bureau's activities in this area were generously publicized by the Bureau itself and were the subject of books, television programs and movies and were undoubtedly a reason for Mr. Hoover's great public acclaim.

Certainly, as Attorney General, I was aware of Mr. Hoover's strong feelings about Communism and subversive activities. So, also, were the Congress and the general public. Mr. Hoover testified annually before the House Appropriations Committee about the success of the FBI's counterintelligence operations against the Communist Party. He made innumerable public speeches and wrote articles and a book on those subjects.

I think it fair to assume that the facts I knew, as did the Congress and the public, were about activities that unquestionably had a disruptive effect upon the Communist Party and splinter organizations. I think it was a matter of public knowledge that membership in the Communist Party would likely to be known to the FBI, and that this constituted an employment risk—certainly with the Federal Government and defense contractors and perhaps with other organizations.

It is not my purpose here to either attack or defend this program of the Bureau, in so far as I was aware of it. My point is simply that it was not a secret. Indeed there were many of us in the Department who thought that

in view of the Smith Act cases, and in view of the changing nature of the Communist Party of the United States, the intelligence program was excessive, wasteful and, perhaps, unwarranted. But it continued to have strong support in Congress and from the Director himself.

Indeed, after I left the Department, Mr. Hoover went even further—again with full public knowledge—and related the activities of the Communist Party with those of many other organizations including the following: the Students for a Democratic Society, the Nation of Islam or Black Muslims, the Student Non-violent Coordinating Committee, the Black Panthers, and groups which came to be called the "New Left". To Mr. Hoover and the Bureau, these groups all advocated violent overthrow of our government and were hence subject to scrutiny. These attitudes were publicly known and supported by large segments of the public and the Congress.

Leaving aside the propriety of Mr. Hoover's preoccupation with such organizations, some of which were not even in existence when I was in the Department, I did not then, and do not now, regard the Bureau's program with respect to the Ku Klux Klan as in any sense comparable to these programs as I have heard them described. I did not think of the Bureau's Klan effort in any meaningful sense, as involved with "counterintelligence".

The Klan program involved the investigation and prosecution of persons who had engaged in and who were committed to the violent deprivation of constitutionally guaranteed rights of others through murder, kidnappings, beatings and threats of violence—all in contravention of Federal and State laws.

If you will remember for a moment the names of Lemuel Penn, Viola Liuzzo, Vernon Dahmer, Medgar Evers, James Chaney, Andrew Goodman, Michael Schwerner, and the bombings and beatings so frequent in the mid-1960's, you may perceive the differences as clearly as I did then. The FBI did a magnificent job in Mississippi and parts of Alabama and Louisiana in bringing to justice the perpetrators of those acts. The Bureau was investigating and attempting to prevent violence. To equate such efforts with surveillance or harassment of persons exercising constitutionally guaranteed rights is in my view unmitigated nonsense.

I have previously, in Executive Session, described at some length the program of the FBI in the South as I understood it. I see no need to repeat that testimony here, and I am attaching it to this testimony. (See p. 213)

The central point of that testimony and my testimony here is that some Klan members in those states, using the Klan as a vehicle, were engaged in repeated acts of criminal violence. It had nothing to do with preaching a social point of view: it had to do with proven acts of violence. The investigation by the FBI was hard, tough, and outstandingly successful.

It is true that the FBI program with respect to the Klan made extensive use of informers. That is true of virtually every criminal investigation with which I am familiar. In an effort to detect, prevent, and prosecute acts of violence, President Johnson, Attorney General Kennedy, Mr. Allen Dulles, myself and others urged the Bureau to develop an effective informant program, similar to that which they had developed with respect to the Communist Party.

It is true that these techniques did in fact disrupt Klan activities, sowed deep mistrust among the Klan members, and made Klan members aware of the extensive informant system of the FBI and the fact that they were under constant observation. Klan members were interviewed and reinterviewed openly—a fact which appeared in the public press at the time. They were openly surveilled. These techniques were designed to deter violence—to prevent murder, bombings and beatings. In my judgment, they were successful. I was aware of them and I authorized them. In the same circumstances I would do so again today.

I was not, to the best of my recollection, aware of any activities which I regarded as improper. I did not, for example, know of the use of anonymous letters to wives of Klan members suggesting their infidelity, or practices of that kind. Even in the context of the Klan I do not regard this technique as proper. There may have been other overreaching by Bureau agents; in an investigation of this size, that is always possible. But I continue to believe that, taken as a whole, the Bureau did an exceptional job in that investigation, a job which was important and essential to the restoration of law in the South and to the welfare of this country. Again, I say I would authorize that type of action where necessary again today.

I hope this Committee will do nothing which would prevent or inhibit such proper conduct.

## III. MARTIN LUTHER KING

The Committee's investigation has revealed some grossly improper acts with respect to Dr. Martin Luther King, Jr. I am appalled by the impropriety of some of those acts. But beyond impropriety, they suggest an irrationality which I did not believe the FBI, or the Director, was capable of endorsing. I certainly was unaware of them at the time, but I cannot claim ignorance of at least a part of the motivation and of one instance of highly improper conduct.

In order to focus on this situation, some background is necessary.

Dr. King emerged as the most influential Civil Rights leader in this country at a crucial time in our history. There is no doubt that the Kennedy administration (both the President and the Attorney General) sympathized with and supported Dr. King's dramatic efforts to demonstrate the extent of discrimination in this country and to right those wrongs. By and large, Dr. King sought only to establish constitutional rights, and so long as he adhered to that objective it was right and proper that the Attorney General supported the efforts that he made to achieve equality. Mr. Kennedy clearly did so. He did so with courage and conviction.

The leadership and support of Dr. King for civil rights for all citizens was an essential ingredient in the Kennedy administration and its dedication to that objective. That basic identity of constitutional and political interest between Dr. King and the Kennedy and Johnson administrations is the necessary predicate of all subsequent events. Anything which discredited Dr. King, or his non-violent Civil Rights movement, would have been a disaster to the Kennedy administration, and after President Kennedy's death, to the Johnson administration. More importantly, it would have been a disaster to the country.

This Committee, with its political experience, can understand what I mean when I say that in the United States in the early and middle 60s a Governmental effort to discredit Martin Luther King, Jr., could have led to civil strife of an incredibly serious nature. As it was, this country came through an extraordinarily difficult period. In my judgment, it could not have done so without the leadership of Dr. King and his dedication to non-violence.

These points underline the problem presented by Mr. Hoover's vendetta against Dr. King. That vendetta had the very real potential of causing civil strife in this country infinitely greater than that which we suffered in our attempts to bring equal rights to black citizens.

Mr. Hoover's capitulation to his personal pique was irresponsible, and clearly contrary to the interests of Presidents Kennedy and Johnson, constitutional government, and the Nation.

From the outset Mr. Hoover had little sympathy with Dr. King's movement and with sit-ins, marches, and other demonstrations which were part of that movement. This may have represented nothing more than the typical distaste of law enforcement officials for situations which, however peaceful their intention and however constitutionally protected, can lead to violence; it may also have been a reflection of the fact that no law enforcement officials at that time really knew how to cope with acts of civil disobedience. Surely Mr. Hoover found it distasteful to investigate local law enforcement officials, as the Civil Rights Division occasionally asked the FBI to do. Clearly, those investigations strained relationships between local FBI agents and local law enforcement. It is a fair statement that those Bureau investigations did not approach the quality of the normal Bureau excellence.

Throughout Mr. Kennedy's administration of the Department of Justice and mine there was considerable tension between the FBI and the Department on civil rights matters. In voting rights matters much of the work which should have been done by the Bureau ended up being done by young civil rights lawyers. The quality of Bureau investigations again was not up to its standards of excellence, and repeatedly the Civil Rights Division had to give the most detailed instructions to the FBI as to what the Division wished done—instructions almost unheard of in any other context in terms of their detail. While the Department as a whole was heavily and enthusiastically involved in such matters as the Montgomery busing, the integration of the Universities of Mississippi and Alabama, and similar events, the role of the FBI was, by comparison, marginal and somewhat grudging.

In part, I believe the Bureau's attitude was grounded in the difficult problem of what the proper role for the Bureau in such unprecedented situations really was. The Bureau did not, in principle, wish to involve itself in those law enforce-

ment responsibilities which were the obligations of local law enforcement, whether or not those obligations were being effectively or constitutionally carried out. In a sense the Bureau performed its normal functions in a situation which was anything but normal. This continued to be largely the case until mid-1964 when the Bureau made its massive effort with respect to the violence initiated by the Klan and its members.

This tension between the Bureau and the Department, and between the Bureau and the Civil Rights Movement, increased as the Department's activities increased and as the Civil Rights movement grew in its intensity. It was greatly aggravated when Civil Rights leaders, and particularly Dr. King, increasingly voiced public criticism of the FBI. That criticism was bitterly resented by the Director.

It is almost impossible to overestimate Mr. Hoover's sensitivity to criticism of himself or the FBI. It went far beyond the bounds of natural resentment to criticism one feels unfair. The most casual statement, the most strained implication, was sufficient cause for Mr. Hoover to write a memorandum to the Attorney General complaining about the criticism, explaining why it was unjustified, and impugning the integrity of its author.

In a very real sense there was no greater crime in Mr. Hoover's eyes than public criticism of the Bureau and Dr. King's repeated criticisms made him a Bureau enemy. Not only his criticisms, but also his character and reputation became subject to attack. Mr. Hoover frequently viewed such criticism as and probably believed it to be, Communist or Communist-inspired. All public critics of the Bureau, if they persisted, were treated in this fashion. The only thing unique about Dr. King was the intensity of the feeling and the apparent extremes to which the Bureau went in seeking to destroy the critic.

Nobody in the Department of Justice connected with Civil Rights could possibly have been unaware of the intensity of Mr. Hoover's feelings. Nobody could have been unaware of the potential for disaster which those feelings embodied. But, given the realities of the situation, I do not believe one could have anticipated the extremes to which it was apparently carried.

Apart from the general concern I have already expressed about Mr. Hoover's attitude towards Dr. King and his Civil Rights movement, I cannot speak in great detail of what occurred when I was Deputy Attorney General to Mr. Kennedy, either because I did not know or I do not now recollect. Mr. Kennedy worked directly with Mr. Marshall and Mr. Doar on Civil Rights matters, and less often with me. I do recall seeing in 1962 (I believe) one or more memoranda stating, in substance, that an important secret member of the Communist Party, known to be such to the FBI, was in close contact with Dr. King and might be influencing the actions of Dr. King's movement in ways amicable to the interests of the Soviet Union and contrary to those of the United States. It is my impression that at this time the Bureau asked for authorization to tap the phones of Dr. King, and that Mr. Kennedy turned that request down. My recollection is that Mr. Kennedy at that time had a representative of the Civil Rights Division call upon Dr. King and suggest strongly to him that it was not in his interest nor in the interest of his movement to have further contact with this person. Mr. Hoover knew of this call.

I believe that for a period of time Dr. King did follow this suggestion, but subsequently the contacts were resumed, and the Bureau informed the Attorney General of this fact in one or more memoranda. I believe there were subsequent cautions in this regard to Dr. King. In any event, the contacts did continue, the Bureau again recommended a wiretap be placed on the phone of Dr. King, and ultimately Mr. Kennedy approved that wiretap.

I associate in my mind the approval of this wiretap with another event, although I cannot clearly recollect the timing. At one point, I believe in 1963, Mr. Hoover prepared a detailed memorandum about Dr. King, referring to the fact of Communist infiltration into the movement and discussing questions of moral character. Initially, he gave that memorandum wide circulation in the Government. Upon hearing of this fact, Mr. Kennedy was furious, and directed Mr. Hoover to withdraw all copies of the memorandum to other Departments of the Government and not to circulate it further.

Mr. Kennedy resigned as Attorney General on September 3, 1964, and I served as Acting Attorney General from that date until my confirmation as Attorney General on February 13, 1965. Throughout this period I did not, of course, know from day to day whether or not President Johnson would nominate me or someone else to be Mr. Kennedy's successor. Obviously, my authority might be temporary, and for this reason I did not take certain actions, particularly with re-

spect to clarifying the Bureau's procedures on electronic surveillance, until after my nomination and confirmation. I felt this was a matter of important policy for a new Attorney General to determine.

During this interim period, on November 10, 1964, Mr. Hoover held an unprecedented press conference with some women reporters. In response to a question at that press conference Mr. Hoover called Dr. King the "most notorious liar in the country". That comment received extensive publicity. The reference, as the Committee may remember, was to the criticisms that Dr. King had made of the FBI.

I spoke to Mr. Hoover in connection with that press conference. He told me that it was not his practice to have press conferences, had not done so in the past, and would not do so again in the future. Perhaps the depth of his feeling with respect to Dr. King was revealed to me by his statement that he did not understand all the publicity which the remark had attracted because he had been asked a simple question and given a simple truthful answer.

Late on the afternoon of Wednesday, November 25, 1964 (the day before Thanksgiving), I was informed by the head of the Washington bureau of an important news publication that one of his reporters covering the Justice Department had been approached by the FBI and told that he could, if he wished, listen to some interesting tapes involving Dr. King. The nature of the tapes was described. The reporter, after consulting his boss, declined.

I was shocked by this revelation, and felt that the President should be advised immediately. On November 28, I flew, with Mr. Burke Marshall, the retiring head of the Civil Rights Division, to the LBJ Ranch. On that occasion he and I informed the President of our conversation with the news editor and expressed in very strong terms our view that this was shocking conduct and politically extremely dangerous to the Presidency. I told the President my view that it should be stopped immediately and that he should personally contact Mr. Hoover. I received the impression that President Johnson took the matter very seriously and that he would do as I recommended.

On the following Monday I was informed by at least one other reporter, and perhaps two, of similar offers made to them the prior week. I spoke to the Bureau official who had been identified as having made the offer and asked him about it. He flatly denied that any such offer had been made or that the FBI would engage in any such activity. Thereupon I asked at least one of the reporters—perhaps all of them—whether they would join me in confronting the Bureau on this issue. They declined to do so.

I do not know whether President Johnson discussed this matter with Mr. Hoover, or what, if anything, was said. However, I was quite confident that that particular activity ceased at that time, and I attributed it to Mr. Johnson's intervention. From that time until I left the Justice Department I never heard from any person of subsequent similar activity by the Bureau, and I assumed it had ceased. I should add only this: I believed that the tapes in question were not tapes resulting from Bureau surveillance but tapes acquired from State law enforcement authorities, and that such a representation was made to the reporter at the time.

While I have no specific recollection, I am sure that I received many memoranda concerning Dr. King and his activities during this period, and I am sure many of those were highly critical of Dr. King's conduct, his reputation and his morals. I am sure similar memoranda went to the White House.

Let me turn now to how I dealt with electronic surveillance after I was confirmed as Attorney General. On March 30, 1965, after extensive discussions and negotiations with the FBI, I introduced, with Mr. Hoover's acquiescence, new procedures with respect to electronic surveillance, which required the Bureau to treat bugs and taps in the same way, that is, to secure the prior written approval of the Attorney General in each instance. I also directed the Bureau to notify me whenever an approved device had been discontinued, and to seek my approval on any device which had been in existence for six months, and to seek a renewed approval every six months thereafter.

In late April 1965, in accordance with this program, I received a request from the Bureau to continue a tap on Dr. King's personal phone. I ordered it discontinued. It is, however, possible that a request for a continuation of a pre-existing tap on the headquarters of the Southern Christian Leadership Conference was made about the same time, and I may have approved that tap. I do not recall the date or the circumstances which would have led me to do so.

Subsequently, on June 30, the President issued a memorandum confining taps solely to national security matters, and requiring that all taps, and practices re-

lating to electronic surveillances, be reviewed with and approved by the Attorney General. He did that at my insistence.

I think it is important for the Committee to recall the racial tensions and demonstrations which were going on during this period of time and which ultimately led to the President's introducing the Voting Rights Act and to its Congressional approval. These events included Dr. King's demonstration in Birmingham, the beating of Civil Rights demonstrators by Sheriff Clark, demonstrations by Civil Rights sympathizers in Washington and repeated Congressional demands upon me to send troops to the South for the protection of Civil Rights workers. The Committee will also recall that Governor Wallace called upon President Johnson, and that President Johnson and I had numerous meetings with Dr. King and other Civil Rights leaders during this period of time. I wish to remind the Committee of those events because there was nothing in this period of time of more concern to me, which occupied more of my time and energies, or which I regarded as more serious for this country.

The Committee staff has shown me four pieces of paper from the Bureau's files which are of major concern to me because they are inconsistent with my policies. Three of these are information memoranda from the FBI, dated I believe, in May (three weeks after I had disapproved a tap on Dr. King's telephone), October, and December 1965 [see footnote p. 21]. Each of these purports to have informed me that without prior authorization a bug had been put in a hotel room occupied by Dr. King in New York City and removed within 24 hours. Each of these bears my initials in what appears to be my handwriting in the place where I customarily initialed Bureau memoranda. I have no recollection of reading or receiving these memoranda, and given the circumstances I have described in this statement, I strongly believe that I would have such a recollection.

Further, in view of the circumstances which I have discussed above, I find it virtually inconceivable that I could have received these memoranda at that time and not written or discussed the matter with the Bureau.

The fourth document is a note in my handwriting, addressed to Mr. Hoover and dated December 10, 1965. I am informed by the Committee staff that that note was attached in the Bureau files to the memorandum from the Bureau dated December 1, which also bears the handwritten date 12/10/65 in what I do not believe is my handwriting. That note comments on the sensitivity of surveillances and the importance of not involving persons other than the Bureau agents in their installation. I recall writing that note. I do not recall the circumstances, and nothing in my possession, including my calendar, has refreshed my recollection on that point.<sup>1</sup>

I am puzzled by the fact that the handwritten note, if related to the December 1 memorandum from the Director, is written on a separate piece of paper. It was then, and is now, my consistent practice to write notes of that kind on the incoming piece of paper, provided there is room to do so.

These memoranda do not indicate on their face the Bureau sought any prior authorization, or state any reasons why it was not sought. They appear to present me with information after the fact and request no authority to perform similar surveillances in the future. I believe the Bureau knew full well that I would not authorize the surveillances in question, not only because of the circumstances surrounding Dr. King, but particularly because the bugs were to be placed in a hotel room. That is among the worst possible invasions of privacy and would demand the strongest conceivable justification. Indeed, I believe this position had been made clear in written memoranda to the Bureau dating back to the 1950's, and I have a clear recollection of being critical of the Bureau for installing a bug in the bedroom of a leading member of the Mafia. I reaffirmed this position to the Bureau sometime in 1965 or 1966, but that reaffirmation may have postdated these memoranda.

Finally, I cannot recall any memoranda at any time informing me that the Bureau had installed a tap or a bug without my prior authorization. While I authorized Mr. Hoover to do so in emergency circumstances in a memorandum written in the summer of 1965, not only does the May memorandum predate that authorization, but there is nothing in the memoranda which suggests that on any of these occasions was there an "emergency".

<sup>1</sup> My calendar does show that on that date I had a meeting alone with the Deputy Director of the CIA, Mr. Helms, which he had requested the previous afternoon. The meeting was a brief one and would be consistent with a request by the CIA for domestic surveillances by the FBI. I rarely saw Mr. Helms alone, and he did on one or two occasions make such a request. But I have no recollection of the subject matter of that particular meeting and cannot therefore say that this handwritten note is related to it.

Further, my calendars, which are in the possession of the Committee, indicate my general availability<sup>1</sup> to the Bureau on two occasions involving these memoranda, and my total availability to the Bureau on the third. Nor do I have any recollection that the "emergency" procedure was ever invoked by the Bureau during my term in office.

Obviously I do not believe that I received these memoranda. Equally obvious is the fact that if I initialed them, I am mistaken in my belief.

Whatever the explanation for these memoranda, it is undisputed that the Bureau never sought my authorization to bug Dr. King at any place and at any time for any purpose, and that in these three instances they did not comply with the procedures I had directed. Not only was I available, but there could have been no conceivable "emergency" on any of these three isolated occasions which would have justified the Bureau proceeding on its own authority. The memoranda state none.

It seems to me clear that the Bureau did not seek my authorization on these three occasions because Mr. Hoover knew it would not be given. And he was absolutely correct in that conclusion.

#### CONCLUSION

Revelations of improper conduct as dramatic as those uncovered by this Committee would seem to demand equally dramatic recommendations to prevent their future recurrence.

The Committee could recommend legislation in a number of areas.

It could recommend that certain methods be forbidden entirely to the Bureau. For example, use of all electronic devices could be banned and their sale or transportation in interstate commerce prohibited or their use could be severely restricted or limited by strict safeguards.

The Committee could recommend greater accountability of the Bureau within the executive branch or oversight by the Congress. It could also limit the tenure of any Bureau director or make his reappointment subject to substantial scrutiny by the Senate through its right to Advise and Consent.

I hope the Committee will not recommend Draconian measures. They are not necessary; they would not work.

The nub of the problems you have disclosed as I see it, is the historical accident of J. Edgar Hoover—a man of great dedication and great talent who built an insignificant law enforcement agency into the powerful Federal Bureau of Investigation. He was able to do this not only because of his unquestioned abilities, but also because he became Director at the threshold of the explosive growth of federal government; because of prohibition; because of World War II with its internal security demands; and because the Cold War continued and expanded those demands vis-a-vis the Communist Party. For almost half a century marked by increasing demands on federal law enforcement, Mr. Hoover headed the FBI. In doing so he became one of the most respected and feared men in American history.

Thus, my view is that even if this Committee did nothing beyond what it has already done through public exposure, the odds against any future Director achieving the political power and political autonomy of Mr. Hoover are overwhelming. In demonstrating the dangers of permitting that power and prestige over such an extended period even to a principled man—and Mr. Hoover was—the Committee has performed a significant public service.

My own philosophy of government is to place responsibility for the faithful execution of the laws squarely where the Constitution places it—on the President. This principle is promoted when the President is responsible for the conduct of Executive Departments and Agencies through his appointments and through the ability of Department heads to run and control their Departments. The more Congress intrudes on Executive decision in non-legislative ways, the more it not only destroys the Executive's ability to faithfully carry out the laws but also diffuses governmental responsibility.

In short, I believe—despite the events of recent years—in a strong Executive. I believe our political system has—and has demonstrated—the capability to hold him responsible for the performance of his Constitutional duties.

<sup>1</sup> For communications purposes, it was my consistent practice to be met by Bureau agents whenever I traveled. In addition, I kept the White House operator informed of how to reach me at all times. On the first occasion, I left my office for a flight to Chicago at 2:30 p.m. and was, as a practical matter, unavailable to the Bureau only during the two-hour flight. On the second occasion, I left my office at 12:35 p.m. for a one-hour flight to New York, and was similarly unavailable only during the flight. On the third occasion, I was in my Washington office all day, and was thus always available to the Bureau.

In the final analysis, I hope the Committee will recognize that decent law enforcement is almost always less a matter of legislative proscription than the judgment—right or wrong in retrospect—of people. It is extraordinarily hard to legislate judgment; it is not so hard to legislate responsibility.

I have said some harsh things about Mr. Hoover. There are many more good things that could be said about him personally and about the remarkable service he gave to this nation. He did build from modest beginnings the best and most principled law enforcement agency in the world. I will accept every warts the committee has uncovered and without condoning those activities—and accepting that there may be more—feel that the positive achievements of Mr. Hoover and the FBI should endure.

There is, I think, a note of sadness on which I should conclude. Mr. Hoover served with distinction, but he served too long. That was the fault of others and of circumstance. Certainly those who had recent contact with him knew that age increasingly impacted his judgment. We all—the Presidents, the Congress, the Attorneys General, the press and many segments of the public—knew that and yet he stayed on struggling against change and the future.

I hope the Committee will weigh the great service he gave this Nation and the great institution he created and dedicated to the public interest favorably against what I regard as largely the transgressions of an elderly man who served with great distinction; but too long.

STATEMENT OF NICHOLAS DEB. KATZENBACH IN EXECUTIVE SESSION,  
NOVEMBER 12, 1975

Mr. Chairman and members of the committee, I understand that my testimony today is to deal primarily with the investigation by the FBI of the Ku Klux Klan. Since the only investigations with which I am familiar occurred about 10 years ago, I think that a brief statement putting those investigations into the context of that time would be useful to the Committee. In my opinion they have nothing to do with any abuse of governmental power.

Let me say at the outset that the Bureau did, to my certain knowledge, investigate, penetrate and disrupt activities of the Ku Klux Klan. It did so vigorously, actively, overtly and with outstanding success. In fact, I believe that the Bureau's thorough and unceasing investigation, and the Department's prosecution of Klan activities, was one of the major factors in bringing to an end the Klan's criminal conspiracy of violence that scourged the South, especially Mississippi, in the middle 1960's. Let me also say as emphatically as I can that our concern about the Klan was not related to its political activities or its social action programs, distasteful as they were to those of us who believe in racial equality. Our concern was with the Klan as a secret criminal conspiracy with enormous power, especially in rural areas of the South, that both advocated and employed violent methods. Its members have been tried and convicted for such atrocities as murder, arson, felonious assault and kidnapping.

Its violence was far from anything "theoretical" protected by the First Amendment. It was actual, real, brutal and would have been—but for the FBI and the Department of Justice—effective in its denial of constitutional rights through violence and intimidation.

The Committee will recall that in the early 1960's the Civil Rights Division of the Department of Justice was actively engaged in efforts to secure compliance with the Civil Rights Acts of 1957 and 1960, paying special attention to voter registration activities.

Voter registration activities were then relatively new to the Department, and of course were uncharted waters to the FBI. In retrospect, I believe that for some time the FBI failed to devote sufficient resources to that effort, and jurisdictional friction between the Department and the Bureau rendered our efforts less effective than they might have been. Such activities were, however, not only new to the Bureau, but they were quite different from typical criminal investigations in which the Bureau excelled.

As a consequence, neither the Department nor the Bureau fully appreciated the significance or indeed the genesis of the repeated acts of violence and bloodshed being committed ever more frequently throughout the South on blacks and civil rights workers. As the activities of civil rights groups increased, so too did opposition to them. One was lawful; one was unlawful; one was peaceful; one was violent.

The Bureau was badly understaffed in the South, and much of its information about the ever increasing violent episodes in the South came from indirect sources, such as clergy, educators, students and the like. Moreover, because local law enforcement organizations—the traditional first line of defense against (and the Bureau's primary source of information about) such violence—were infiltrated by the very persons who were responsible for much of the

violence, the net effect was that there was in many sections of the South a total absence of any law enforcement whatsoever.

By the Spring of 1964, incidents of violence in Mississippi, parts of Georgia, Alabama and Louisiana reached truly alarming proportions. In Mississippi alone there were more than 50 fire bombings, shootings, beatings and killings—all aimed at lawful Civil Rights activities—in the first few months of 1964. Local law enforcement officials were powerless—or unwilling—to stop the bloodletting.

Two things became apparent to us in those months. First, the episodes were not random. They were part of a conscious campaign—a criminal conspiracy, and our information pointed directly to the Klan. Second, they were directed almost entirely at black citizens and civil rights workers whose goal was to exercise the rights guaranteed to them by the Constitution and the laws of this country. Thus, the jurisdiction to investigate and prosecute these wanton violations of civil rights fell squarely to the FBI and to the Department, under 18 U.S.C., Section 241 and Section 242. (In addition, the "Summer Project"—the influx of young people into the South—was a tremendous concern to all of us in the Department.)

Federal efforts, already under way, did not crystallize until June 21, 1964, the day that three young civil rights workers, Goodman, Chaney and Schwerner, were brutally murdered in Neshoba County, Mississippi. Those murders, later characterized by a Federal Court of Appeals as a "calculated, cold-blooded, merciless plot", shocked the nation. They also sent the Department of Justice into action in an investigation that I think was probably unparalleled for its thoroughness, vigor and success.

The murders were traced to an organization known as the White Knights of the Ku Klux Klan of Mississippi. The White Knights, organized just five months earlier, had as their stated goal, to protect and promote white supremacy and segregation of races, with violence if necessary. In the months between February and June 1964, Klaverns were established in at least 29 Mississippi counties, and repeated acts of violence, including other murders, were traced to the White Knights during that period.

The situation seemed uncontrollable, and it deteriorated daily. In early June, 1964—before the murders—Attorney General Kennedy had written to President Johnson about the Mississippi situation:

"In addition, it seems to me that consideration should be given by the Federal Bureau of Investigation to a new procedure for identification of the individuals who may be or have been involved in acts of terrorism, and of the possible participation in such acts by law enforcement officials or at least their toleration of terrorist activities. In the past the procedures used by the Bureau for gaining information on known local Klan groups have been successful in many places, and the information gathering techniques used by the Bureau on Communists or Communist related organizations have of course been spectacularly efficient.

"The unique difficulty as it seems to me to be presented by the situation in Mississippi (which is duplicated in parts of Alabama and Louisiana at least) is in gathering information on fundamentally lawless activities which have the sanction of local law enforcement agencies, political officials and a substantial segment of the white population. The techniques followed in the use of specially trained, special assignment agents in the infiltration of Communist groups should be of value. If you approve, it might be desirable to take up with the Bureau the possibility of developing a similar effort to meet this new problem."

Acting on his own, Kennedy sent a team of experienced criminal lawyers from the Department of Justice to Mississippi for a first-hand report on the growing violence. The President, in total agreement with the Attorney General, directed a full-scale FBI investigation of the murders of Goodman, Chaney and Schwerner. Working closely with Mr. Kennedy, and using all the powers of his office, he asked Allen Dulles to confer immediately with Mississippi officials as his personal emissary. On June 23, Mr. Hoover sent Inspector Joseph Sullivan, one of the toughest and most experienced agents in the Bureau, to Mississippi, and the next day, sent Assistant Director Al Rosen to join him.

When Mr. Dulles returned to Washington two or three days later, he recommended a far greater Federal law enforcement presence in Mississippi. It is also my belief, and that of my colleagues in the Department, that Inspector Sullivan made a similar recommendation to the Director, and that he was highly critical of the Bureau's performance to date in Mississippi. In any event, at the direct request of President Johnson, Mr. Hoover flew to Mississippi on July 10, opened an FBI field office in Jackson, Mississippi, and announced that the number of

FBI agents in Mississippi had been increased from a very few—less than ten—to over 150. Most of those agents worked around the clock on the Neshoba County case. Hoover also appointed Roy Moore, another experienced, tough, top-flight agent, as special agent in charge of the Jackson office. Because of the Bureau's typical passion for individual anonymity, those two gentlemen—Sullivan and Moore—have never been accorded the recognition due them.

The Bureau did in fact crack the case. The Committee will undoubtedly recall the grisly details of the discovery of the burned-out station wagon, the decomposed bodies buried under an earthen dam, and the arrest and conviction of those responsible, including a deputy sheriff and ultimately the Imperial Wizard of the White Knights.

I refer to that case in some detail not because it represented a high mark in the Bureau's long list of outstanding criminal investigations—which it did—but because it commenced and typified, I believe, the Bureau's successful "war" against the criminal elements of the Ku Klux Klan.

During that investigation, because of that investigation and as an integral part of that investigation, the criminal conspiracy was indeed penetrated and disrupted. Because there was so little physical evidence—for months we could not even find the bodies—a full scale investigation of the Klan was mandated. Agents of the FBI interrogated and reinterrogated every known member of the Klan in Mississippi. Many were openly followed, using surveillance techniques that the Bureau had developed in connection with organized crime cases. We learned more about the Klan activities in those months than we had known in years. I have no doubt that as an integral part of that investigation, members of the Klan on whom we were focusing our efforts became disoriented, distrustful of other members, and ultimately persuaded that cooperation with the ubiquitous FBI agents was the only safe recourse.

That case could not have been solved without acquiring informants who were highly placed members of the Klan. Whereas before the murder, the Bureau had few such informants, as the conspiracy began to fall apart, due to FBI pressure, many Klansmen became frightened and began to pass on valuable information to the FBI. This took time; in fact Imperial Wizard Sam Bowers, who was sentenced to ten years in prison for his role in the killing, was not even indicted until February, 1967—2½ years after the bodies had been discovered.

Let me be quite direct. I have no doubt that the Bureau's investigation of the criminal activities of the Klan was tough, intensive, harassing and thorough. I expected no less, the President asked for no less, and the Nation deserved no less.

But let me also distinguish as forcefully as I can the Bureau's efforts against the Klan from any disruption of groups composed of ordinary citizens seeking only to exercise their Constitutional rights. This situation was the precise opposite of that situation.

Klansmen in Mississippi—the Klan leadership—were not ordinary citizens. They were lawbreakers of the most vicious sort—terrorists who intimidated, bombed, burned and killed, often under the watchful and protective eyes of their brethren in the local law enforcement agencies. In the words of Judge John Minor Wisdom, for a three judge Federal Court:

"The compulsion within the Klan to engage in this unlawful conduct is inherent in the nature of the Klan. This is its ineradicable evil."

"We find that to attain its ends, the Klan exploits the forces of hate, prejudice and ignorance. We find that the Klan relies on systematic economic coercion, varieties of intimidation, and physical violence in attempting to frustrate the national policy expressed in civil rights legislation. We find that the Klansmen, whether cloaked and hooded as members of the Original Knights of the Ku Klux Klan, or sulking in anonymity as members of a sham organization, 'The Anti-Communist Christian Association,' or brazenly resorting to violence on the open streets of Bogalusa, are a 'fearful conspiracy against society \* \* \*[holding] men silent by the terror of [their acts] and [their] power for evil.' *United States v. Original Knights of the Ku Klux Klan*, 250 F. Supp. 330 (E. D. La. 1965)

We should be justly proud of the Bureau's efforts in smashing the Klan's criminal conspiracy of terror and violence and bringing so many of its members to the bar of justice.

This Bureau presence and Bureau activities—and Department prosecutions—did not, by any means, put an end to violence. That took time. But it did solve the Schwerner, Chaney, Goodman murder case; it did result in the quick appre-

hension of the murderers of Mrs. Liuzzo in the fall of 1964, and those of Vernon Dehmer and others later; as the pace of violence in Forest County, Pike County, Greenwood, McComb, Bogalusa and innumerable other places picked up, so too did the Bureau activity. Acts of violence and terror by the Klan were seen and exposed to legal process for what they were, raw criminal conduct. Massive investigations by the FBI, resulting in arrests and convictions by the score throughout the South, was an important event in our history. It was, as I have said, a magnificent performance and one the Bureau should be proud of. I certainly am.

**Mr. KATZENBACH.** This committee has publicly exposed activities of the FBI which were unlawful, grossly improper, and a clear abuse of governmental authority. According to the testimony before this committee, some of those activities took place while I was Attorney General or Deputy Attorney General. I am surprised and shocked by some of these activities, particularly those which reflect an effort to discredit Dr. Martin Luther King, Jr. Those activities were unlawful and reprehensible and should be condemned by this committee. My surprise and shock stems from the fact that these activities occurred with the apparent knowledge and approval of J. Edgar Hoover rather than from the fact that I, as Attorney General or Deputy Attorney General, was unaware of them. Mr. Hoover dedicated his life to building a Federal Bureau of Investigation which enjoyed a great and deserved reputation for integrity, efficiency, and dedication to public service. I would not have expected him to risk the Bureau's reputation—his life's work—by resorting to unlawful or improper tactics.

I was aware of the fact that the Director held political views far more conservative than my own or those of the administrations which I served. I knew that on occasion he promoted those views on the Hill without consultation with me, and sometimes in opposition to administration policy. I knew the intensity of his views on the dangers of Communism, on the decline of moral standards, on the evils of permissiveness, on the lack of respect for law and order. I knew also that as Mr. Hoover grew older and the country changed—for the worse, in his view—the intensity of those feelings and his frustration at what was taking place grew. I knew too that Mr. Hoover was extremely sensitive to any criticism whatsoever, and that he deeply and personally resented public criticism by civil rights leaders, and especially that made by Dr. King. I knew all these things, and so, I believe, did the Congress, the press, and much of the public at large.

When you look at these activities from the perspective of 1975, I am surprised at how much was public information. If one rereads Mr. Hoover's testimony in 1968 before the Violence Commission, one sees what appears to be almost an outline of the COINTEL Program. I do not suggest, of course, that he revealed publicly those activities which the committee has uncovered. But I respectfully suggest that not only Attorneys General, but the Congress and the general public were on notice as to the general thrust of these activities. In my more detailed statement I point out the extent of congressional and public knowledge with respect to: domestic intelligence activities, the use of confidential informants, the extent of FBI files, public knowledge with respect to wiretaps and electronic surveillances, the use of mail covers, the intensity of the investigation of the Ku Klux Klan, and other matters. The general thrust of the Bureau interests, and the reasons therefore, were not in any sense secret.

Being in the Department of Justice I was, perhaps, more aware of and conscious of those facts and some of the problems they raised than others may have been. There was, especially in the area of civil rights, a good deal of tension between the Director on the one hand and the Attorney General and his principal assistants on the other. I was very conscious of the fact that there was often a lack of candor in relationships between the Bureau and the Department; that the Bureau was opposed to many of the views of Mr. Kennedy, Mr. Clark, and myself; that Mr. Hoover expressed views privately, and occasionally publicly, that were at odds with those of the administration; that the Bureau leaked stories to the press which were embarrassing to me and to my predecessor. I did occasionally pursue those leaks but the Bureau invariably denied that it was the source. Having said that, let me say that I did respect the Bureau's reputation for integrity and propriety in law enforcement matters, and that it never occurred to me that the Bureau would engage in the sort of sustained improper activity which it apparently did. Moreover, given these excesses, I am not surprised that I and others were unaware of them. Would it have made sense for the FBI to seek approval for activities of this nature; especially from Attorneys General who did not share Mr. Hoover's political views, who would not have been in sympathy with the purpose of these attacks, and who would not have condoned the methods?

Mr. Hoover was a national hero. I doubt that any Attorney General after Harlan Fiske Stone could or did fully exercise the control over the Bureau implied in the formal relationship which made him subordinate to Attorneys General. Mr. Hoover had great "clout" in Congress and with Presidents. That position resulted naturally from his great public reputation and the respect which Members of Congress and Presidents had for him and the Bureau. I do not think the practices this committee has brought to light could have been exposed other than by congressional investigation. And I suggest that a congressional investigation of the FBI was not a political possibility during Mr. Hoover's tenure as Director. Mr. Hoover exercised total control over the Bureau and its personnel and brooked no interference with that process. Neither the Congress, which always voted the appropriations he asked, and sometimes more, questioned that control; no more did his nominal superior in the Department of Justice. Exercising that control, Mr. Hoover built the FBI into the finest investigative agency in the world.

I think the Congress and the general public probably viewed Mr. Hoover's control over the Bureau as a protection against a politically motivated Attorney General or a politically appointed U.S. Attorney. What may have been less appreciated is the fact that the Bureau was an extremely important and necessary resource of the Department and the key to its success at any time. No Attorney General can carry on the work of the Department without the full cooperation and support of the FBI. Animosity between an Attorney General and the Director was a losing proposition for the work of the Department and for the success of any administration, as well as for the Attorney General involved. Certainly I sought in many ways to avoid, wherever possible, too direct a confrontation. Mr. Hoover was very conscious of the fact that an independent FBI would be far more vulnerable to public suspicion and public criticism than one formally under the control of the

Attorney General. He would always count on a defense and expression of confidence by his formal superior. In effect, he was uniquely successful in having it both ways: He was protected from public criticism by having a theoretical superior who took responsibility for his work, and was protected from that superior by his public reputation.

Mr. Hoover was a permanent fixture in the Government; Attorneys General, in fact 18 of them, came and went. Surely he must, with some justification, have regarded Attorneys General as rank amateurs in the investigative techniques in which the Bureau was so expert. While he was enormously sensitive to any accusation that a particular investigative activity was not authorized by the Department, this did not mean the incumbent Attorney General or any of his principal subordinates knew of that activity. Mr. Hoover was satisfied if the Bureau at any time had been authorized by any Attorney General to conduct a particular activity in any circumstance whatsoever. Perhaps to the head of a large bureaucracy in which Attorneys General come and go this is a reasonable way of proceeding. But there is simply no way an incoming Attorney General can or should be charged with endorsing every decision of every predecessor, and particularly those decisions which even the predecessor did not know he was making. And, as the committee has discovered, Mr. Hoover, especially in later years, went beyond any semblance of authorization. The Bureau constantly resorted to terms of art, or euphemisms, without bothering to inform the Attorney General that they were terms of art. I don't think it is excessively naive to assume that a "highly reliable informant" is precisely that, and not a microphone surveillance. I don't think that the Nation's chief law enforcement officer is or ought to be involved in a guessing game, particularly without being told the rules.

I don't wish to belabor this point, but I most strongly urge that the committee review my correspondence with the Director on the occasion of the Justice Department's filings in the Supreme Court in the *Black* case in 1966. It was at that time that I became dramatically aware of the lengths to which the Bureau would go in trying to justify its authority. My correspondence with Mr. Hoover at that time unavoidably became a bitter one, and it persuaded me that I could no longer effectively serve as Attorney General because of Mr. Hoover's obvious resentment toward me.

My prepared statement then turns to the three subjects in which the committee has expressed a particular interest. I have discussed these in considerable detail, and I have made every effort to insure my recollection is as accurate as it can be. But, despite the effort and time involved in trying to reconstruct events of 10 years ago from very limited resources, I can make no claim that my recollection is complete or in all cases precisely accurate. It is simply my best recollection.

I discuss first the opening of mail, a program as to which, I am virtually certain, I had no knowledge. The press, and perhaps the committee staff, has mistakenly drawn the inference from certain internal memorandums of the FBI that I was aware of this program. My statement discusses these memorandums in detail. I do not recall any such program and had I been aware of it, I am sure that I would recall it since I would not have tolerated it.

The second subject I discuss in some detail is the Ku Klux Klan and the outstandingly successful investigation which the Bureau conducted

in that regard. I say that I did not then and do not now regard the Bureau's program with respect to the Klan as in any sense comparable to so-called "counterintelligence" programs. The Klan program involved the investigation and prosecution of members of organizations who had engaged in and who were committed to the violent deprivation of constitutionally guaranteed rights of others through murder, kidnappings, beatings, and threats of violence—all in contravention of Federal and State laws. If you will remember for a moment the names of Lemuel Penn, Viola Liuzzo, Vernon Dahmer, Medgar Evers, James Chaney, Andrew Goodman, Michael Schwerner, and the bombings and beatings that became so frequent in the mid-1960's, you may perceive the differences as clearly as I did then. The FBI did a magnificent job in Mississippi and parts of Alabama and Louisiana in bringing to justice the perpetrators of those acts. To equate such efforts with surveillance or harassment of persons exercising constitutionally guaranteed rights is, in my view, unmitigated nonsense.

Third, I discuss what I knew about the wiretaps, bugs, and other surveillance with respect to Dr. Martin Luther King, Jr. I point out the tension between the Department and the Bureau with respect to the civil rights movement, a tension which increased as civil rights leaders, especially Dr. King, were publicly critical of Mr. Hoover and the Bureau. I have tried to describe fully all my knowledge about taps and bugs on Dr. King, including my order to terminate a tap on his home phone and the Bureau's alleged after-the-fact advices about three subsequent overnight bugs of Dr. King's hotel rooms, without prior authorization. It is important here, as with the Klan investigation, for the committee to recall the events of that time and the tremendous stake the Nation had in preventing civil strife and Dr. King's important contribution through his commitment to nonviolence. In this context, Mr. Hoover's capitulation to personal pique stemming from public criticism of the FBI was particularly reprehensible, and clearly contrary to the interest of Presidents Kennedy and Johnson, constitutional government, and the Nation. His vendetta against Dr. King, if successful, could have led to civil strife of frightening magnitude.

My conclusion, after hearing what information I have and that revealed by the committee hearings to date, is that the problems which the committee has disclosed rest more with the historical accident of J. Edgar Hoover—a man of great dedication and great talent who built an insignificant law enforcement agency into the powerful Federal Bureau of Investigation—than they do with the need for much legislation to prevent future abuses. It is my view that if the committee did nothing more than it has already done through public exposure, the odds against any future Director achieving the political power and political autonomy of Mr. Hoover are overwhelming. In demonstrating the dangers of permitting that power and prestige over such an extended period of time even for a principled man, and Mr. Hoover was, the committee has performed a significant public service.

Mr. Hoover built from modest beginning the best and most principled law enforcement agency in the world. That should not be forgotten. Therefore, I conclude with a note of sadness. I believe that Mr. Hoover served with distinction but he served too long. That was the fault of others and of circumstance. Certainly those who had

recent contact with him knew that age increasingly impacted his judgment. We all—the Presidents, the Congress, the Attorneys General, the press and many segments of the public—knew that, and yet he stayed on struggling against change and the future. I hope the committee will weigh the great service he gave this Nation and the great institution he created and dedicated to the public interest favorably against what I regard as largely the transgressions of an elderly man who served with distinction, but too long.

Senator TOWER. Thank you, Mr. Katzenbach. Mr. Clark, we have your complete statement. You may summarize it or read it in its entirety as you choose. In any case, it will be printed in full in the record.

#### **TESTIMONY OF RAMSEY CLARK**

**Mr. CLARK.** Thank you, Mr. Chairman.

I ask that my 7-page statement be put into the record and I make a few comments so we can get on with the questioning.

It seems like we have been through an intolerable series of revelations of Government misconduct. As we approach our 200th anniversary, I hope we will remember that freedom made this country possible, and freedom has been our credo, and that we will act with strength and determination now to see that we can begin our third century in freedom. It has been imperiled, I believe, by Government misconduct.

I served 8 years in the Department of Justice, beginning with the Kennedy administration and ending at the end of the Johnson administration. I was no stranger to the Department. When I first officially entered there, I padded the halls as a 9-year-old kid beside my father. I love the place. I believe its importance in our social fabric is enormous. I believe it is a durable institution, but I believe it needs help, and I think the Congress must be a principal source of that help.

I have sadly come to the conclusion that the revelations regarding the FBI and other governmental activities concerning Dr. Martin Luther King, Jr., require the creation of a national commission, not legislative, not executive, although it certainly could contain members of both of those branches, but involving the people.

I think we have a crisis, among other things, in credibility. I would like to see people on this commission who were close to Dr. King, who believed in his moral leadership and participated in his movement, lawyers from his past, people who worked with him, like Congressman Andy Young, many others, broad based.

I think the commission should have the power to compel testimony to subpena witnesses and documents. I do not believe we can afford to leave a stone unturned in exposing for the scrutiny of a democratic society every activity of government that related to Dr. King, to his friends, his associates, his church, the Southern Christian Leadership Conference, any of his activities, to his work.

That is a sad thing for me to have to recommend. I was Attorney General when Dr. King was murdered. I followed that investigation more carefully than any investigation while I was Attorney General. I had confidence at the time that we were doing everything that could be done to determine the facts. But my confidence and my judgment don't matter. The confidence and the judgment of the people is imperative.