



Katherine A. Scott. *Reining in the State: Civil Society and Congress in the Vietnam and Watergate Eras*. Lawrence: University Press of Kansas, 2013. 248 pp. \$34.95 (cloth), ISBN 978-0-7006-1897-2.

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In the Sacred Name Of Security

A syndicated columnist criticized the federal government for investigating journalists who were seeking out information that the government wanted to keep secret. He charged that he was being wiretapped, “in the sacred name of security” (p. 22). This could be a critique from 2013, but it is not. The author, Joseph Alsop Jr., does not refer to the July 2013 debate to add privacy protections to National Security Agency (NSA) programs. He was complaining about transparency issues in the Dwight Eisenhower administration; the year was 1955. Katherine A. Scott tackles the overlapping issues of national security, privacy, and government transparency in her deeply researched and engaging work, *Reining in the State*. Scott succeeds in adding historical perspective, and fresh voices, to this complex story. Her work is a must-read for anyone struggling to understand the current debate over executive power and national security.

Broadly speaking, Scott’s “book is a history of the movement to rein in the state during the 1970s” (p. 2). While she covers the 1950s through the creation of the Federal Intelligence Surveillance Act (FISA) in October 1978, she correctly acknowledges that many of these struggles “between the White House and the press” and “between legislative and executive” have a history as long as that of the country itself (pp. 14, 20). Certainly issues of security have, as Scott points out, gathered in importance in the years since World War I, reaching a fever pitch during the Cold War when security issues bled over into political considerations that caused “secrecy [to] spread like cancer” (p. 22).

Scott acknowledges that she “chronicles the efforts of a group of unheralded heroes who battled to reinvigorate judicial, legislative, and civic oversight of the executive branch to prevent abuses by government agencies in the future” (p. 2). Embracing reform over revolution, the author labels this bipartisan group of activists “neo-progressives” (p. 4). Some names are familiar to the

reader: Pentagon staffer Daniel Ellsberg; long-time presidential advisor Clark Clifford; Senators Sam Ervin, Edward Kennedy, and Walter Mondale; journalist Seymour Hersh; CBS correspondent Daniel Schorr; and *Washington Post* reporters Carl Bernstein and Bob Woodward. Others are far less known. Scott paints compelling portraits of these individuals and unsung heroes, for example: Mark Halperin from the Center for National Security Studies and Committee for Public Justice; Congressman William Moorhead; chair of the House Post Office and Civil Service Committee, John Emerson Moss Jr.; executive director of the American Civil Liberties Union (ACLU), Aryeh Neier; Senator Gaylord Nelson; *Washington Monthly* publisher Charles Peters; U.S. Army Captain Christopher Pyle; chairman of the American Society of Newspaper Editors, Russ Wiggins; and the undisclosed members of the Citizens’ Commission to Investigate the Federal Bureau of Investigation (FBI).

Scott, who is assistant historian with the U.S. Senate, makes clear that any success to curb government overreach was the product of Congress working with dedicated individuals in public interest groups. Subsequently she provides “a more complex picture of policy reform than examinations of congressional hearings alone would allow” (p. 149). Ironically, one of the unsung spokesmen for the reform movement was Herbert Lawrence Block (Herblock). With his spot-on political cartoons, which surely influenced countless Americans, sprinkled throughout the book, the reader is left wishing Scott had taken a moment to discuss Herblock’s background and significant editorial cartooning career. Scott does sketch out the motivations of the government officials responsible—sometimes unintentionally—for such government abuses, i.e., Ramsey Clark and John Mitchell, attorneys general; William Colby, the director of the Central Intelligence Agency (CIA); Senator John McClellan; Defense Secretary Robert McNamara; and of course

J. Edgar Hoover, the FBI director, and President Richard Nixon.

Scott begins with the story of the glacial pace that plagued the passage of the Freedom of Information Act (FOIA). While producing a slender volume, the author succeeds in clearly explaining the complexities of policy development in captivating detail. The “right to know” movement found spokespeople in journalism and Congress (p. 12). What started out as an investigation into the Harry Truman administration’s dismissal of federal postal workers suspected of being Communists evolved into an effort to pull back the “paper curtain”–or censorship–imposed by the executive branch in the name of national security (p. 13). The demand for government transparency gathered steam through the 1960s, especially when confronted with Lyndon Johnson’s policies in Vietnam. Success came in the form of the passage of FOIA, which Johnson reluctantly signed in 1966. Using FOIA, Congress began investigating “government invasions of privacy including wiretapping, letter opening, and other forms of surveillance” (p. 32).

In chapters 2 and 3, Scott goes beyond the well-documented abuses of the FBI—including the Counterintelligence Program (COINTELPRO)—to explore the intelligence-gathering operations of the Departments of Justice and Defense that heretofore have “escaped public scrutiny” (p. 45).[1] With the creation of the Interdivisional Information Unit within the Justice Department in December 1967, Clark, the attorney general, hoped to gather its own intelligence and “rely less on Hoover’s FBI” to combat escalating urban violence (p. 45). While Clark consistently opposed “wiretapping and electronic surveillance at the federal level” (p. 35), concern about escalating crime and rioting prompted Congress to take matters into its own hands and pass legislation that, among other measures, legalized wiretapping and electronic surveillance. Also in 1967, Johnson ordered McNamara “to assume more of the burden of managing and executing the administration’s civil disturbance strategy” (p. 51). In response, McNamara oversaw the creation of the CONUS (Continental United States) Intelligence Branch, which “centralized control for army intelligence under the Army Intelligence Command” (p. 55). By the end of the Johnson administration, the Justice Department “presided over a grand intelligence clearinghouse with extraordinary new capacities for data collection and retrieval” (p. 50). Meanwhile, the army was aggressively gathering intelligence to find a Cold War link between domestic unrest and international Communism, sparking the concern of some army officers.

Disturbed by domestic security operations of the Justice and Defense Departments, an “unlikely coalition” of organizations and individuals intent on transparency and reform came together in the early 1970s (p. 94). Scott explores this coalition in chapters 4, 5, and 6, and its successes in the wake of the Watergate scandal. In 1974, Congress passed amendments adding more teeth to FOIA and approved the Privacy Act. Scott’s discussion of Nixon’s false effort to curb government overreach—the Domestic Council Committee on the Right of Privacy—highlights the president’s ironic and “laughable” political ploy (p. 116). When the Supreme Court refuted Nixon’s claim of “executive privilege” as justification for defying a subpoena—a claim Senator Ervin described as “poppycock”—it seemed to sound a death knell for abuse of executive power (p. 118). FOIA revisions and a seemingly comprehensive Privacy Act—along with well-documented congressional investigations of the FBI, CIA, and NSA—prompted some to label 1975 the “Year of Intelligence” (p. 149). Scott concludes with a description of the complex compromise necessary to create FISA in 1978. The act authorized the creation of “secret courts ... to review electronic surveillance warrant applications” (p. 162).

The 1980 election of Ronald Reagan “marked the end of intelligence reform” (p. 178), but neo-progressives were comforted by the safeguards they had managed to put in place. Perhaps they did not grasp, as Scott provocatively observes, that “these reformers’ efforts, ironically, had the long-term impact of legitimating the national security state” (p. 7). And once legitimized, abuses were all but certain to resurface.

Scott uses extensive archival sources including journalistic accounts, progressive organization documents, and a wide representation of pertinent government archives. Her organization is clear and logical and her writing is smooth, concise, and engaging. And her topic is so timely! Scott admits that other scholars will need “to bring some of the issues that I have explored here into the twenty-first century” (p. 184), yet it is challenging to engage this work without constantly being brought back to the present. This is especially true when one reads: “Famously, the NSA refused to cooperate with Church committee investigators until the *Times* broke a story alleging that the NSA eavesdropped on the electronic conversations of American citizens.... The committee discovered that the agency had, with the full cooperation of telecommunication companies, monitored international telegrams since 1947” (p. 144). Everything old is new again!

Scott's assertion that when the George W. Bush administration "circumvented and revised FISA, stonewalled FOIA requests, and demonstrated little regard for the Privacy Act ... [it did] not undermine the significance of the reform movement of the 1970s" (p. 183), reads a bit optimistic. Revelations about the actions of the Barack Obama administration, particularly those of former NSA contractor Edward Snowden, demonstrate that technological advancements and an ongoing concern with national security continue to challenge the United States. Snowden exposed "vast domestic surveillance programs that vacuumed up data on phone calls, e-mails, and other electronic communications." [2] And changes to FISA in 2008 undermined judicial oversight, asking judges to "approve broad categories of surveillance" rather than "individual surveillance requests," leaving "little leeway to reject proposed surveillance programs." [3] One wonders what Scott's neo-progressives would think of the label that the *Washington Post* recently applied to America's current surveillance state—"unaccountable." [4]

Results of the 1970s reforms may, as Scott asserts, give "new tools with which to pry into the state's dark recesses and expose its secrets" (p. 178). If so, then the *New York Times'* recent assertion that public opinion is now primed for "a repeat of a scandal-reform cycle from almost four decades ago" is spot-on. [5] We can only hope, since secrecy is surely toxic. As Kathryn Olmsted cautions: "Since the First World War, officials of the U.S. government have ... engaged in conspiracies and used the cloak of national security to hide their actions from the American people.... They have promoted official conspiracy theories, sometimes demonstrably false ones, for their own purposes. They have assaulted civil liberties by spying on their domestic enemies. If antigovernment conspiracy theorists get the details wrong—and they often do—they get the basic issue right: it is the secret

actions of the government that are the real enemies of democracy." [6]

Scott rightly puts "the people" back into the story of national security reform in her important and timely book. In highlighting what scholars have largely overlooked and exposing "how the citizenry's distrust of and anger with their government resulted in a large-scale and largely successful campaign to limit the power and reach of the national security state," she may be providing the most provocative lesson of all (p. 69). It appears in 2013 that it is the power of the people that must once again strive for a more transparent and accountable democracy.

Notes

[1]. Among others, see David Garrow, *The FBI and Martin Luther King, Jr.: From "Solo" to Memphis* (New York: W. W. Norton, 1981); Kathryn Olmsted, *Challenging the Secret Government: The Post-Watergate Investigations of the CIA and FBI* (Chapel Hill: University of North Carolina Press, 1996); and Alan Theoharis, *The FBI and American Democracy: A Brief Critical History* (Lawrence: University Press of Kansas, 2004).

[2]. David A. Fahrenthold, "With NSA Revelations, Sen. Ron Wyden's Vague Warnings about Privacy Finally Become Clear," *The Washington Post*, July 28, 2013.

[3]. Timothy B. Lee, "Obama Says the NSA Has Had Plenty of Oversight: Here's Why He's Wrong," *The Washington Post*, June 7, 2013.

[4]. Ibid.

[5]. Scott Shane, "Challenges to U.S. Intelligence Agencies Recall Senate Inquiry of '70s," *The New York Times*, July 26, 2013, A13.

[6]. Kathryn Olmsted, *Real Enemies: Conspiracy Theories and American Democracy, World War I to 9/11* (New York: Oxford University Press, 2008), 239-240.

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