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SPECIAL REPORT

The mathematics of impeachment: a *NEW TIMES* survey of the Senate finds Nixon two votes short of the magic number—34

By Judy Coburn

It has always been fashionable in Washington to eschew public prediction-making, while spending whole afternoons poring over the current *Congressional Directory* making checklists of how Congress will vote on a given issue. Impeachment Washington is no different. To be sure, congressmen are more reluctant to put themselves on the record than usual "until all the evidence is in." Senators in particular, as potential jurors, refuse to discuss their individual votes. But most agree with Republican Conference Chairman Representative John Anderson when he says, "If Nixon doesn't resign, the present mood of the House is to impeach him." And so, in the back offices of the Senate, in the press gallery and the Senate cloakroom, some people are comparing lists. "They don't talk about it, even among themselves," insists a staffer for an influential Republican senator. But no one believes him.

By most counts, President Nixon is in deep trouble in the Senate. Thirty-four is the White House's magic number, the barest number required to avoid conviction. The President's support has been eroded badly by the transcripts, and for the first time Washingtonians think conviction in the Senate is possible. "I'd say Nixon has only 40 guys in the Senate he can even just work on," says one seasoned political reporter, "and getting those last five votes will be like squeezing blood from a turnip."

If the trial were to start in September, as now projected, most political analysts think that Richard Nixon could count on 18 hard-core votes at the most against conviction. (See Box)Nixon has a pool of about 15 or more senators who might support him in the right circumstances. But this larger group is by no means firmly in Nixon's camp. It includes such notorious free-thinkers as George Aiken and Barry Goldwater, senators with serious reelection problems like Milton Young and Peter Dominick, and political bellwethers like Republican whip Robert Griffin and Howard Baker.

Capitol Hill listmakers find about 51 firm votes for impeachment right now, 16 short of the number needed for impeachment. Besides including all of the liberal and moderate Democrats, the group includes nine liberal and moderate Republicans, like Edward Brooke, Charles Percy and Charles Mathias. Although they are as reluctant as the rest of the Senate to prejudge the case, most in this group find the evidence already on the public record persuasive enough.

Senators and staffers alike agree that one of the President's most serious problems in the event of a Senate trial is that the Republican leadership—Senator Hugh Scott and Whip Robert Griffin—can't be counted on to go all out in organizing an anti-conviction drive. Scott was burned badly when the White House convinced him six months ago that the transcripts had nothing incriminating in them. When they were released he called their tone "deplorable and shabby." He is not likely to go out on a limb for the White House again. Griffin, a grave but political animal, seems likely to tilt with the political winds, if the evidence is solid. Pollsters also see strong anti-Nixon tides in Griffin's home state of Michigan; the Republican loss of two secure seats there recently underscored the point.

The fall elections are an imponderable factor in the impeachment equation to most Capitol Hill politicos. Some see a vote after the election helping the President, with senators coming back to him even though public opinion is running against him. But others see the election factor running the other way, with senators free to vote against the President after the election when they are less fearful of backlash from conservative voters. Six senators—George Aiken, Harold Hughes, Sam Ervin, Wallace Bennett, Norris Cotton and Alan Bible—have announced their retirement but will vote if, as seems likely, the count comes before next January. Races in Arkansas, Florida, Ohio and several other states may add three senators or more to the group of "lame ducks" voting on impeachment. But even the question of a senator's constituency is tricky. Most of those running are poring over the polls and some aren't sure what they show. Many reassure themselves with thoughts like those of House Judiciary Committee Republican Bill Cohen that "it's between me, the facts and the Constitution."

Perhaps aware of the uphill task, the White House lobbyists on the Hill are already maneuvering to build support in the Senate. The strategy is to woo conservatives on the issues they feel deeply about. The hope is that ideological conservatives like Buckley and Goldwater can be added to the group of the President's hard-core supporters by reminding them that Nixon is the closest thing to a conservative they'll get as president. (Jerry Ford is the *clinker* there). Thus, the Labor Department was overruled recently when it tried to oppose Senator Dominick's proposal to weaken job safety enforcement. Over Secretary of Agriculture Earl Butz's objections, the White House backed retention of sugar-marketing controls to please rural conservatives like Louisiana's Russell Long. But on some issues like detente, welfare reform or the legal-services program, the White House may not be able to go far enough to please its critics on the right.

The White House's top lobbyist in the Senate, Tom Korologos, gets high marks for his persuasiveness, savvy and restraint. He declined last week to discuss any impressions he might have of how the Senate might vote on impeachment. "If anyone could help turn the tide against the President, Korologos could," says one staffer for a Southern Democrat. "For one thing, he's not like the other guys up at 1600 [Pennsylvania Avenue]. When he tries to get you to support some tactic, you don't feel like the message behind it all is that you'd better have your tax returns in order."

Many Washingtonians, including some cynics, think impeachment may not be an issue that can be dealt with by run-of-the-mill political tactics. No one doubts that the White House is trying to

do just that, with President Nixon emerging from isolation in recent weeks for hectic rounds of picture-taking and Potomac cruises with possible Senate supporters. But they simply doubt that such tactics will work. "I'm not saying impeachment is free of politics," said one Midwestern Democratic senator recently in his office late one afternoon. "But politicians, especially incumbents, are deeply worried about the public's cynicism. What better confirmation of it than to discover the Senate is horse trading on impeachment?" The best politics may be not to deal on this one, or at the very least not to appear to.

Next to head counts, Washington loves scenarios. Most kicking around now take a fairly lopsided, bipartisan House impeachment vote for granted, if the articles are based on the cover-up and the White House's refusal to furnish tapes and material to the House committee. Then, Republicans fantasize, the key Republicans—Scott, Griffin, House Leader John Rhodes, Anderson, and maybe Mel Laird and party head George Bush, all led by elder statesman Barry Goldwater—go to the White House to ask the President to resign. If he refuses, the case goes to the Senate. Here it gets tricky. What Washington fears most is a cliffhanger, an Andrew Johnson kind of result, one way or the other.

A consensus is the fervent hope. And there aren't many takers on the bet that it will go in favor of the President. "I see a lot of votes changing over at the last minute, and if it's going that way, only six or seven votes for the President in the end," says one staffer for a Southern Democrat. It is here that a handful of influential senators may count for everything. Southerner Herman Talmadge, clearly outraged by White House doings during the Watergate Committee, can influence fellow Southerners. If old-timers John Stennis and John McClellan moved over, that would be the beginning of the end for the President. Howard Baker could swing some votes because of his service on the Watergate Committee and because of his national political ambitions. Sam Ervin might sway some lawyers. Scott and Griffin are important if they choose to exert influence. Robert Byrd, as Democratic Whip, might convince more of his Southern colleagues than the liberal leader Mike Mansfield. George Aiken and James Buckley are influential because of their independent reputations. The key, though, is Goldwater. "He could start a rush in either direction and is the one man who could organize the Senate," says one of his Republican colleagues. Goldwater is said to believe privately that President Nixon was deeply involved in the cover-up.

But maybe head counts and scenarios aren't even the point. "Impeachment is an issue like Vietnam, a moral issue, the kind Washington doesn't know what to do with because it can't be managed in terms of public opinion or political deals," said one Republican senator nervously in a recent chat. "Basically I see us in a period like the months before LBJ resigned—not that I see Nixon resigning—in that I don't see Washington having much control over what's happening in the country. The groundswell has its ups and downs. High impeachment sentiment after Cox and the transcripts. Tapering off periods like now. But even without any more bombshells, the President's eventual ouster, however far down the road, seems the end result."

The President couldn't reverse the trend? "Well, I don't go in for all these predictions. It's just too hypothetical. Anything could happen. We've been through these scenarios so many times, I'd hate to call it. Now—where do you put Talmadge on your list?" ●

PRO-IMPEACHMENT

Abourezk, James G. (D-S.D.)
*Bayh, Birch (D-Ind.)
Bentson, Lloyd M. (D-Tex.)
Biden, Joseph R. (D-Del.)
Brooke, Edward W. (R-Mass.)
Burdick, Quentin N. (D-N.D.)
Case, Clifford P. (R-N.J.)
*Church, Frank (D-Ida.)
Clark, Richard C. (D-Iowa)
*Cranston, Alan (D-Calif.)
*Eagleton, Thomas F. (D-Mo.)
Fulbright, J.W. (D-Ark.)
Gravel, Mike (D-Alas.)
Hart, Philip A. (D-Mich.)
Hartke, Vance (D-Ind.)
Haskell, Floyd K. (D-Colo.)
Hatfield, Mark O. (R-Ore.)
Hathaway, William D. (D-Maine)
Hughes, Harold E. (D-Iowa)
Humphrey, Hubert H. (D-Minn.)
*Inouye, Daniel K. (D-Hawaii)
Jackson, Henry M. (D-Wash.)
*Javits, Jacob (R-N.Y.)
Kennedy, Edward M. (D-Mass.)
McGee, Gale W. (D-Wyo.)
*McGovern, George (D-S.D.)
McIntyre, Thomas J. (D-N.H.)
Magnuson, Warren G. (D-Wash.)
Mansfield, Michael J. (D-Mont.)
*Mathias, Charles McC. (R-Md.)
Metcalf, Lee (D-Mont.)
Metzenbaum, Howard M. (D-Ohio)
Mondale, Walter F. (D-Minn.)
Montoya, Joseph M. (D-N.M.)
Moss, Frank E. (D-Utah)
Muskie, Edmund S. (D-Maine)
*Nelson, Gaylord (D-Wisc.)
*Packwood, Robert W. (R-Ore.)
*Pastore, John O. (D-R.I.)
Pell, Clairborne (D-R.I.)
Percy, Charles H. (R-Ill.)
Proxmire, William (D-Wisc.)
Randolph, Jennings (D-W.Va.)
*Ribicoff, Abraham A. (D-Conn.)
*Schweiker, Richard S. (R-Pa.)
Stafford, Robert T. (R-Vt.)
Stevenson, Adlai E. III (D-Ill.)
Symington, Stuart (D-Mo.)
Tunney, John V. (D-Calif.)
Weiker, Lowell P. (R-Conn.)
Williams, Harrison A. (D-N.J.)

ANTI-IMPEACHMENT

*Allen, James B. (D-Ala.)
*Bartlett, Dewey F. (R-Okla.)
*Bennett, Wallace F. (R-Utah)
Brock, William E. III (R-Tenn.)
Byrd, Harry F. Jr. (Ind-Va.)
Curtis, Carl T. (R-Neb.)
Eastland, James O. (D-Miss.)
Fannin, Paul J. (R-Ariz.)
Fong, Hiram L. (R-Hawaii)
*Gurney, Edward J. (R-Fla.)
Hansen, Clifford P. (R-Wyo.)
Helms, Jesse A. (R-N.C.)
Hruska, Roman L. (R-Neb.)
McClure, James A. (R-Ida.)
McClellan, John L. (D-Ark.)
Scott, William L. (R-Va.)
Thurmond, Strom (R-S.C.)
Tower, John G. (R-Tex.)

SWING VOTES

LIKELY PRO-IMPEACHMENT

*Bible, Alan (D-Nev.)
Beall, J. Glenn (R-Md.)
Byrd, Robert C. (D-W.Va.)
Cannon, Howard W. (D-Nev.)
Chiles, Lawton M. (D-Fla.)
Domenici, Pete V. (R-N.M.)
Ervin, Sam J. (D-N.C.)
*Hollings, Ernest F. (D-S.C.)
Huddleston, Walter (D-Ky.)
Johnston, J. Bennet (D-La.)
*Long, Russell B. (D-La.)
Nunn, Sam (D-Ga.)
Pearson, James B. (R-Kansas)
Sparkman, John J. (D-Ala.)
Taft, Robert Jr. (R-Ohio)
*Talmadge, Herman E. (D-Ga.)
Roth, William V. (R-Del.)

LIKELY ANTI-IMPEACHMENT

*Aiken, George D. (R-Vt.)
*Bellmon, Henry L. (R-Okla.)
Baker, Howard H. (R-Tenn.)
Buckley, James L. (Cons-N.Y.)
*Cook, Marlow W. (R-Ky.)
*Cotton, Norris (R-N.H.)
*Dole, Robert (R-Kans.)
*Dominick, Peter H. (R-Colo.)
*Goldwater, Barry M. (R-Ariz.)
Griffin, Robert P. (R-Mich.)
Scott, Hugh (R-Pa.)
Stennis, John C. (D-Miss.)
Stevens, Theodore F. (R-Alaska)
*Young, Milton R. (R-N.D.)

*Up For Reelection This Year

Will the real Richard

Nixon thinks of himself as Lincoln; his detractors say he is the Godfather. But the transcripts suggest that he is more like the white whale, a frightening and tantalizing blank in the political sea

By Richard Poirier

In the books about Nixon, and I think I've read them all, there is no testimony from anyone who has spent time with him—family, friend or foe—that suggests what it's like to be near him. He seems to have no affect whatever, to leave no reportable impression. If there were a book about Nixon comparable to the recent reminiscences by the friends of John Kennedy, *Johnny, We Hardly Knew Ye,* the title would not indicate that Nixon had departed the mortal scene too early in life, but rather that he had never occupied it in any way that allows intimate recollections.

The White House transcripts prove the point. Even when what's left unshredded and undoctored is one day made available, we won't have the whole Nixon. He is not a man capable of giving himself in small, much less large, doses, and for good reason: it is unlikely that by now a real self exists any more for him than it does for us. Still, the transcripts are probably as close as we can come to some approximation of the elemental Nixon and how it functions.

These transcribed conversations, hedged as they are with cautions that are dissolved only in a few rare instances, with trickeries directed as much against the aides he trusted as against the world outside the Oval Room which they all mistrusted, these transcripts, with their curious mixture of apparent sincerities and obvious deceptions, of pretended deferences ("at least that's my view," the President is fond of saying) giving wav to

Nixon please stand up?

only momentary bursts of authority, offer a drama that might be called the trying out of Richard Nixon.

The trying out consists, to resort to *The Standard College Dictionary*, of "a performance in preparation for a public opening; a test of an actor in a role; a trial to ascertain fitness for some purpose." And in the give and take necessitated by this kind of "trying out" in the Oval Room and the Executive Office Building, the transcripts are also a trying out in a special sense some might remember from a reading of *Moby Dick*. That is, the melting down of blubber, as from a whale, to the essential oil, the burning away of rhetoric to show, however obscured by smoke screens, something of the essence, still slippery nonetheless, and, like ambergris, with a sinister, lurid perfume. Up to now Nixon has been, to press the analogy, like the white whale on the loose, a kind of frightening and tantalizing blank (though elemental force) in the political sea, a blank onto which admirers or detractors could project almost whatever color, whatever valuation or disvaluation they chose to imagine out of the needs and paranoias which he has helped to generate since he first entered national political life.

And just as the problematic nature of the white whale (with its capacity to excite speculation which it could never itself satisfy) had the result of stimulating in Ahab and his crew the effort to understand the mystery by drawing analogies, to categorize the enigma by comparison, so, too, with our mysterious Dick. One commentator, Garry Wills, notes that Moynihan tries to cast Nixon as Disraeli, Kissinger to cast him as Metternich, Len Garment to cast him as Churchill, and that Nixon yearns to cast himself as Woodrow Wilson. For Wills, the Nixon of the Checkers speech is altogether more like Dickens' Uriah Heep: "umble as I am, umble as my mother is, and lowly as our poor but honest roof has ever been. . . ." Another commentator has compared him to the hero of Horatio Alger's "Ragged Dick" series, based as they are on the principle that a struggle against poverty and temptation inevitably leads a "good" but common boy to wealth and fame. Yet another, in the recent play *Dick Deterred*, makes Nixon into Richard the Third.

These and other comparisons help, I suppose, but not much. Richard the Third, for example, is a man who oiled his way to the throne with the blood of more

ILLUSTRATION BY TERRY MOSHER

legitimate contenders until he is finally cut down himself. But unless one believes that Nixon had a hand, through Hunt, let's say, in the attempted assassination of Governor Wallace (a hypothesis that must, in the light of Gore Vidal's brilliant essay on E. Howard Hunt in *The New York Review of Books*, continue to haunt the mind), it is more likely, given the challenge to Shakespeare's characterization by recent historians, that the comparison does more injustice to the English than to the American Richard. Richard the Second might come a bit closer, with his self-pitying banalities, his dependence on corrupt aides whom he helped corrupt, his anxiety about his great rival Bolingbroke (for which read the Kennedys) of whom he tries to dispose by imputations of scandal. And there's a further likeness: when the jig is up he, too, wants to hold onto his crown by making it synonymous with his head, by confusing the throne with his person, his Presidency with his only temporary occupancy of the office. But our Richard, however much he participates in these weaknesses and obfuscations, is a far tougher person and an altogether more adroit politician.

Admittedly, Johnson was compared to Macbeth in a quite crude bit of political satire named *MacBird*, but Nixon somehow has existed in the imagination up to now in a greater variety of comparisons than probably any president in our history. Of course, in a sense, figures like Richard the Second and Richard the Third also exist only by virtue of some exaggerated comparisons, by virtue, that is, of their transformation into the glamour and power of Shakespeare's language. Perhaps in their own voices, if we had tapes and transcripts, they would sound as banal as Richard Nixon. What is evident from Shakespeare to the present, however, is that we do not want the great emperors of the earth to be or to sound banal in private or in public.

At least that was the case up to the present. Nowadays it may well be that the preference of the vast majority of people who vote for Nixon, as distinguished from the tiny minority who write about him, is for someone whom they do not have to imagine as being very much different from themselves. Nonetheless, the public response to the transcripts indicated that once a man is allowed to occupy our equivalent of the throne, people expect of him a certain kind of conduct, a certain imagination on his part of the role he must now play. Of this, Nixon is apparently incapable. In a curious way it might be said that he has betrayed his historic trust by fulfilling his political mandate.

NIXON AS RICHARD II
BY BLAKE HAMPTON

This obsession with the power and personalities of the great emperors of the earth is, after all, one of the central subjects which has bedeviled the human imagination beginning with the literature of Greece and Rome. And if imagining what the great emperors are like in private is a problem for us, it is also, apparently, a problem for them. We play the record of *Camelot* and think of the dead leader, when perhaps we should wonder why, if Jack Kennedy really was like King Arthur, did Jackie also have to play the record in their bedroom. Kings and queens, at least in the historic plays of Shakespeare, go about even in private thinking giddily of themselves, sometimes in the third person and as the literal embodiment of the country. "I am dying, Egypt, dying," says Antony to his Cleopatra.

It is not unamusing to note that the President, who has all the while tried to seem like an almost faceless citizen, should now be acting like the most imperial occupant of his Office. All rulers try to avoid at least the appearance of those "swellings" and "over-reachings"–the Renaissance equivalents for "getting out of line"–that will so misshape the body politic as to necessitate amputation. Nixon has decided to give up trying. In fact, even in the early conversations in the transcripts about the "cancer growing on the presidency" (as Dean would have it), Nixon will only go so far as "lancing the boil," as if that will reduce the swelling.

Romantic, wicked, wacky or obscene, Nixon can't be any of these to the point where our imagination can take hold

His figures of speech about himself when he is in trouble are as tacky as the toy hats and tunics in which, when he felt on top of things, he dressed the White House police. Romantic, wicked, whacky or obscene–he can't be any of these to the point where our imagination can take hold. Part of the humiliation in reading the transcripts is the discovery that Nixon's own imagination, after everything the nation has given him by way of stimulation, never takes fire from the dazzling situations in which he has been allowed to find himself. Nobody in public life has ever impoverished the imagination of a people more than he has. After the houses, after the White House dinners, after Air Force One, after Peking and Moscow, our chosen king remains no more than the man from whom, long ago, we were warned not to buy a used car, even if it comes from the car pool at the White House.

Failing of glamour on the high road, then, we set out to endow Nixon with some sort of glamour on the middle or the low road. Commentators have gone from Shakespeare to Fitzgerald's Gatsby, the man of inner vacancy whose manifestations of ill-gotten wealth give him no satisfactions beyond pursuit of a dream that turns out to be unworthy of the effort. And from Fitzgerald they've gone, with great frequency of late, to Puzo's *The Godfather*: Nixon as Mafia lord in the calmness and dignity of his achieved preeminence, leaving the dirty work, of which he was himself an acknowledged master, to his trusted "family," who manage only to get him into trouble, get him killed almost, though he's at last too clever for that and dies on his own time. And yet, if Nixon is unequal to roles that might sustain the awesomeness of his office, he is also unequal to the role of thug. "I am not a crook," he says, and while those who think that he is one may be offended by his lying, those who think that he isn't are even more offended by his contemptible way of telling the truth. The Topeka *Journal*, in renouncing support of him, is said to have compared goings-on in the Oval Room and the Executive Office Building to a gangster film with James Cagney, which is only a pathetic effort to sweeten the bullet when they had at last decided to bite it. And *The Village Voice*, which ran a series about Nixon's alleged operations in Florida, makes him into a crooked son of a bitch, one smart macho, operating with the Bebe on Mafia profits, and forgets, as liberals always do, that if false analogies in Nixon's favor turn round to hurt him when he can't live up to them, false analogies in his disfavor turn round to help him when it's shown that he doesn't quite live up to those either.

Manifest in all this is the use of literature for the most plaintive of causes–to make the conduct of our public affairs seem just a tiny bit more gratifying to the imagination than is the conduct of most of our private ones. Hence, even the possibility that the man in the Oval Room is an arch villain is somehow preferable to the greater likelihood that he is only what Conrad calls "a flabby devil." That's true, of course, only for those who don't like flabby devils, and there are indications that the majority of citizens now prefer them to real ones. Traditionally, at least,

true villainy was thought to have its own kind of grandeur. Because if there is grandeur in wrongdoing, then, at least, we have been led to suppose, there may someday, with someone, be grandeur of another and ennobling kind. It doesn't seem unreasonable, in a time of great national crisis like the present, to want therefore some evidence of human range, of extremities reached. Nixon seems to deny the possibility. He has done what it seemed impossible to do. He has proved the irrelevance to himself of the entire repertoire of the popular imagination, the popular mythologies of art, high, middle or low.

To think, therefore, of any possible literary examples which will help us understand him is to think of figures who have accumulated enormous significance but who cannot, finally, imagine or articulate it. One example is Shakespeare's Iago, but only *after* he decides never again to speak: "Demand me nothing," he replies when asked to explain the clear evidence of his scheming, "what you know, you know." Iago's resort to silence is, like Nixon's, more than defiance, more even than self-protection. It is also, I suspect, a tacit acknowledgment that for what he has done there simply is no explanation that can now make any kind of sense to the people who want one. All he can give additionally are more facts; there no longer exists the possibility of extenuation. And the facts have already burst the forms, each more contrived and embracive than the last, which he and his cohorts invented to contain the facts when they first began to emerge. Nothing Nixon can say, nothing he can release, including the undoctored tapes, will explain what we know already. He can merely enlarge upon what we know—that there was and is a conspiracy.

What needs to be understood is not only how Nixon himself participates in it but, more importantly, why he and his supporters, even with the transcripts in evidence, can still nonetheless insist on his innocence. Moral outrage will not help us toward an understanding. We must instead try to figure out what he could mean by "innocence." The reason for doing this is not to exonerate him, which is impossible. Rather, to consider the possible legitimacy of his claim to innocence points us toward certain features in our society and in ourselves which prevent us from calling him, just as it prevents certain large segments of our society from calling even Lt. Calley, guilty of anything. That is, in the degree of Nixon's innocence resides if not our collective guilt then surely our collective responsibility for the things that have happened to our country, and of which Richard Nixon is only the most visible representation.

Nixon is hard to locate, hard to describe, partly because he is that large part of America itself which has become inarticulate, inexpressible, knowing what it knows but not caring, not able, to tell. To understand him more thoroughly would be to understand the apparently colorless, disaffected mass of people who have elected him to represent them. They knew and did not resent his colorlessness. Even his ardent supporters, even Goldwater, have described him in some such terms as "a loner," "unreadable," and the extent of his support, especially in the last election, represented the pure expression of a national will, or willessness, untainted by the kinds of personal affection or personal enthusiasm which contributed to the popularity of John and especially of Robert Kennedy.

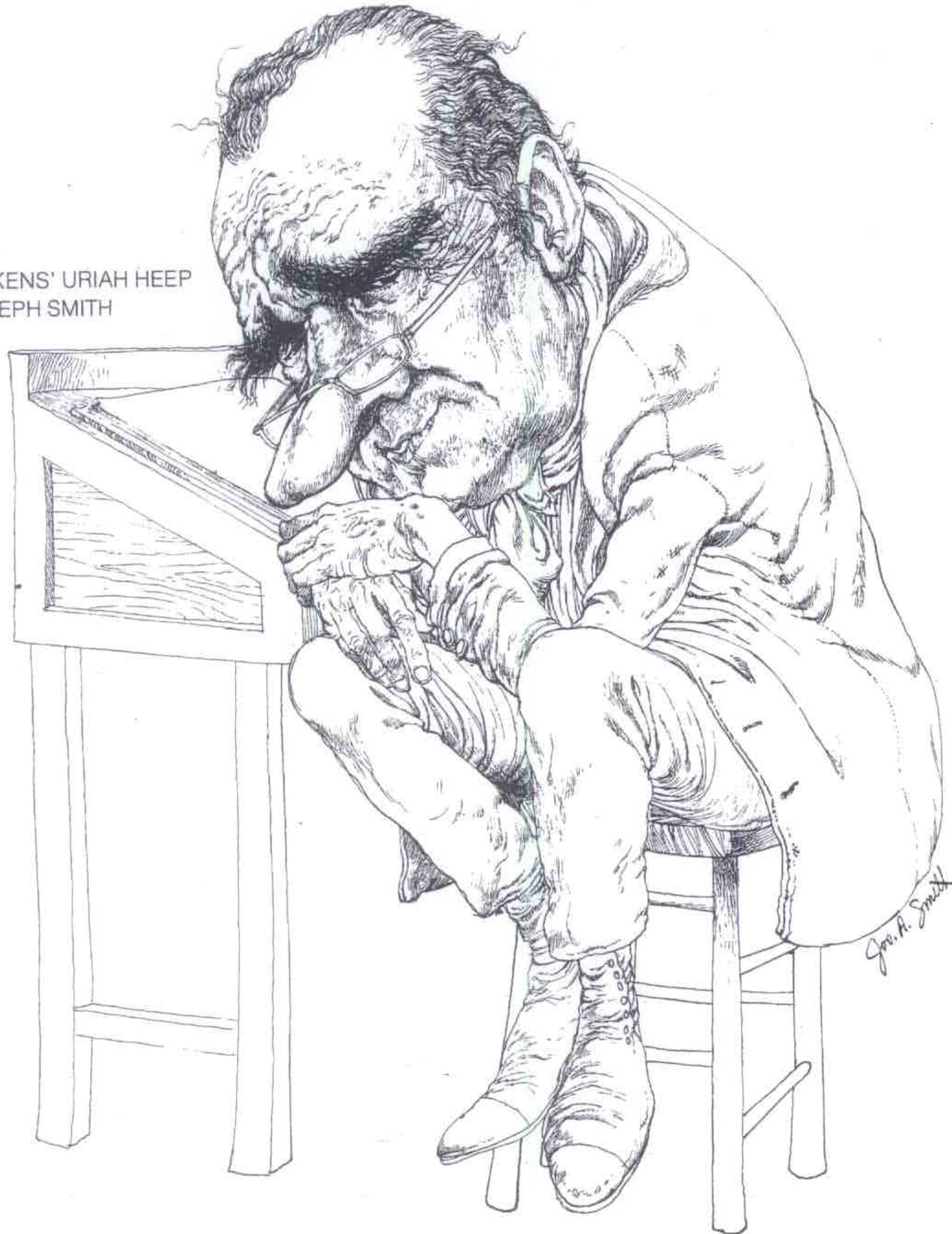
We should wonder why, if Jack Kennedy really was like King Arthur, did Jackie have to play the record of *Camelot* in their bedroom

For that reason the transcripts only give the momentary illusion of making him less anonymous. When you strip Nixon of some of his public covers, when you get down near the essence, what you find is—nothing remarkable at all. After the first shock of "hearing" him in a relatively unbuttoned state, there is yet another and greater shock, the shock of national self-recognition. The transcripts remind us that the Oval Room and the Executive Office Building are very much like many other rooms in homes and businesses across the country, and they therefore raise the possibility that the manners and mores of the White House conversations tell us as much about the country as they do about its leaders. In that sense, the White House spokesmen, right about so little, were right when they labeled expressions of moral outrage over the transcripts as so much hypocrisy. The evidence of swearing, for example, surely can surprise no one; the play with options is standard practice in most businesses, especially in the advertising business where Haldeman and Ziegler worked together in the same company; and the blatant exploitation of "national security" and of "executive privilege" oughtn't to provoke anyone who nodded over the Tonkin Gulf resolution, refused to inquire into President Johnson's likely complicity in the Bobby Baker scandal, failed to test out the allegations that Bobby Kennedy played fast and loose with wire taps, or didn't get at all excited when it was known that Truman set up a special tax loophole to cover the royalties for Eisenhower's *Crusade in Europe*.

Is it any wonder that besides mention of most of these and of many other precedents for wrongdoing in high places the transcripts should be filled, too, with the public rhetoric of law and order, of authority and respect for office which, long before Nixon came to office, were the shibboleths by which the national government of Kennedy and Johnson people tried to repress any critical inquiry into the misuses of power? From the beginning of his career Nixon has only been an especially raw and notorious practitioner of these various forms of national deceit, evasion and moral pretension.

This is especially true after *The Pentagon Papers*. Like the transcripts, *The Pentagon Papers* are about the plan and execution of systematic lying to disguise the illegal application of executive presidential power. But the similarity does not end there. Just as *The Pentagon Papers* demonstrate the degree to which government officials and government agencies habitually communicate to one another in documents that will someday be public and do so knowing nonetheless that they are speaking in essential P.R. formulas which are at variance with the known truth, so the transcripts show how the President and his aides continually consult *as if* they are not aware of the actual story they are meanwhile trying to hide by the creation of alternate stories or fall-back positions or bureaucratic obstruction. The substance of the two documents is importantly different, but the manner, the participation in the dialogues of deceit, is, just as importantly, the same.

And just as it is demonstrably ludicrous to think that Kennedy and Johnson and their aides, those most reputable men, believed the lies about democratic self-determination in Vietnam and the lies about North Vietnamese provocation, while talking in these terms *even to one another*, so it is impossible to believe, despite what he likes intermittently to claim in the transcripts, that Nixon didn't know the whole Watergate story from the very beginning. One cannot "listen" to the way he and Haldeman talk to each other and think that Haldeman could or would have withheld information from the Presi-



NIXON AS DICKENS' URIAH HEEP
BY JOSEPH SMITH

dent which Magruder gave him the day after the Watergate break-in and which, as Magruder testifies in his forthcoming book, Haldeman seemed, in any case, to know already. Equally, only the most naive could note the way Nixon and Mitchell talk to each other in the transcripts and still believe that when Mitchell was eased out, two weeks after the break-in, he and the President sat alone through a farewell luncheon together on July 1 and solemnly assented to the explanation that Mitchell had to quit as campaign manager for "the one obligation which must come first: the happiness and welfare of my wife and daughter."

Assuming full presidential knowledge, the conduct of the conversation in the tapes begins not only to make sense but to become an exciting personal drama, a drama, to begin with, of "law and order" under siege and the attempt to restore it to authority. "Law and order" has always been a neurotic imperative of Nixon and of certain elements in the country that are traditionally frightened of disorderliness and incapable of seeing its potential benefits.

"Law and order" has been an extension onto the public life of the nation of that control of impulses which, from the very beginning of his career, Nixon has exerted over himself. It takes an inwardly unruly person, and a citizenry worried about its own unruliness, to care as much about "law and order" as Nixon and his majority always have, and the transcripts are simply the final, the inescapable evidence of a repressed unruliness, of a terrified obsession with losing control of situations, of an embattled authoritarianism straining to regain control.

There is an intense conflict in Nixon between, on the one hand, his own anarchic impulses, his criminality, and, on the other, his insistence on the control of these impulses by acts of will rather than by subscriptions to judicial law. The refusal to "release" even any healthy evidences of his own lawlessness has always been apparent even in some of his public conduct. There is, for instance, the famous speech after the loss of the 1962 gubernatorial election in California when he taunted reporters with the remark that they "won't have Richard Nixon to kick around anymore." This seeming outburst is often taken as an example of one of the few times when he has lost control in public, but any close attention to the film

clips of the press conference will show that the true significance of the episode is in the drama of his continually reasserting control whenever he comes close to letting it all out. It is a revelation of his superb, distrustful self-discipline and, above all, of how this discipline has preempted the place of instinct, as in an athlete who, though beaten, continues mechanically to exhibit flashes of his craft. His predilection for verbal slips is evidence, in his case, of someone who has let himself be so wholly absorbed into formulas, so displaced by the mechanical pilot, that he becomes momentarily unaware that he is using the wrong words in what, diagrammatically, is the right place in the sentence. A little-known instance, on a long-suppressed film clip of a newsreel, occurred when, asked to comment on the shooting of Oswald by Jack Ruby, he gave that slight cocking of the head, that single prolonged hooding of the eyes that apparently turns on the memory bank for the release of whatever he's planted there earlier in the rehearsed day: "Our system of justice," he said, "simply cannot condone such acts. Two rights don't make a wrong–I mean, two wrongs don't make a right."

The transcripts are best read as an instance, on a massive scale, of the sequence just illustrated. An effort to gain and to hold control of an unpredictable situation–such as the election of 1972, at least when Muskie seemed a likely candidate–sets in motion forces that need to be watched and contained by Nixon himself and by a few trusted agents, preeminently Mitchell, Haldeman and Ehrlichman. The operation, like earlier ones which were also full of dirty tricks and illegalities, especially the '62 California gubernatorial campaign which was run by Haldeman, was not, under such guidance, supposed to have been prey to accidents. But the trouble with manipulations of a highly disciplined kind is, like the trouble with the paranoia being expressed by them, that planning and precision, especially of a secret kind not subject to general review, is notoriously vulnerable to human accident. Indeed, the whole disaster issued from quite trivial failures of attention, little eruptions of human vagueness. If there had not been a bit of ineptly placed masking tape left on a door lock in the Watergate, the watchman would not have been alerted to the break-in at all; if the greatly admired superspies Hunt and Liddy had not left film in the camera they returned to the CIA, there would not have been a photo in the files of the agency showing Liddy standing, as Dean puts it, "proud as punch" outside the office of Ellsberg's doctor with the doctor's name clearly visible on a sign. Such is the stuff of history. Accidents, impulsiveness, even vanity– the things Nixon had spent a lifetime controlling with law and order for the self and, God willing, the nation– these very things established a connection between Watergate and the Ellsberg matter, either one of which might, if not connected, have been explained away. And from this first link others developed a life of their own, leading to the Plumbers, the tapping of newsmen's phones following Ellsberg's release of *The Pentagon Papers*, and the efforts of Hunt and Liddy in matters involving Howard Hughes, Dita Beard, ITT, Segretti. It was indeed a cancer, obeying its own rules, and like a cancer it started from the merest mutations.

The transcripts are a drama of repeated efforts to contain the disruptive consequences of disorderly facts, facts, that is, which instead of remaining self-contained seemed gregariously to "connect" themselves to other facts belonging to incidents and plans that were, Nixon wanted to insist, wholly unrelated and discreet. As the transcripts show, the process centered initially on efforts to keep events from being "connected" and on equally strenuous efforts to keep people from "connecting" and sharing what they knew. But when attempts to keep things separate would flounder, then attention would go to contrivances by which emerging patterns could be rationalized or covered by claims of national security. Part of the problem was, of course, with his own staff and the natural affinities by which they would trade information and slowly become aware themselves of being part of some larger and sinister pattern.

The release of the transcripts is really part of the cover-up—not an exception to it

Nixon's handling of these and related difficulties is far more impressive than commentaries on the transcripts have chosen to suggest. He uses and controls everyone and everything he talks to, including the tape machines. In relation to the machines, he is in a position both to substantially control what goes onto the tapes, including what he can induce others to say, and to control the disposition–the timed release, the distortions, the destructions–of the tapes themselves. It is probably this multiple arrangement for the control of himself and others that helped induce some of the momentary lapses on the tapes that are also characteristic of Nixon, but which he felt sure he could correct by the release of doctored transcripts. The release of the transcripts is, therefore, really part of the cover-up, not an exception to it. Knowing that the Special Prosecutor, on recommendation of the Grand Jury, had made some of the tapes available to the Rodino committee– the tapes he was obliged to release, complete with gaps, after the storm over the dismissal of Cox–he seems to have expected that his own highly contrived transcript of the tapes, along with St. Clair's equally contrived prefatory analysis of them, would sufficiently flood and confuse public reaction just at a point when the few tapes he had been forced to release were going to be played before the House Judiciary Committee.

While the transcripts are clearly an inadequate substitute for the tapes when it comes to many specific passages of great importance, their very existence, along with their over-all conversational manner, give unmistakable evidence of the general involvement of the President in a conspiracy to obstruct justice. The patterns of talk suggest not an effort on the part of Nixon to know more about Watergate and related crimes but rather to know, and then be better able to control, what other people are managing to piece together. What is taken as a curious deference on the part of the President, a kind of slowness in his dealings with Haldeman, Ehrlichman and even Dean, is rather, I think, a combination of noblesse oblige ("What the hell, I am always kind," he says on March 27), an awareness that the group, except for Dean, already shares the basic information, and a deeply ingrained talent for manipulating a number of intentions that are potentially and dangerously self-canceling. It seldom served his purpose to take command of a situation in which more purposes were served by seeming to be ignorant. In using his aides to try out different forms of explanation, he is at the same time anxious to use the tapes to register, as best he can, the appearance of being unaware from the start of the explosive "connections" of some facts with other facts. The tape machines were, among other things, a convenient device for self-monitoring. This was doubtless true, too, for Haldeman, who admits knowing about the machines, and it seems clear that Ehrlichman knew about them as well, despite the advantages he gets from the claim that he didn't. Probably, but not certainly, they knew as much as the President knew about the whole imbroglio.

But the likes of Dean, Petersen and Kleindienst not only knew far less about it

but did not know they were being spoken to by a man who also knew that their conversations were being taped. In dealing with them, the President's special problem was that neither the tapes nor the auditors should get a clue to the extent of his knowledge. What, then, did he want from them? Advice? But what good is advice from people who knew so much less than he knew about the situation? Their advice was useful only insofar as it could be applied to that situation of relative ignorance the boundaries of which it was in the President's interest both to determine, restrict and solidify. He asked them, and especially Dean, a lot of questions, not because he needed to know the facts but because he needed to know what they, the Justice Department and the Grand Jury, considered the facts to be.

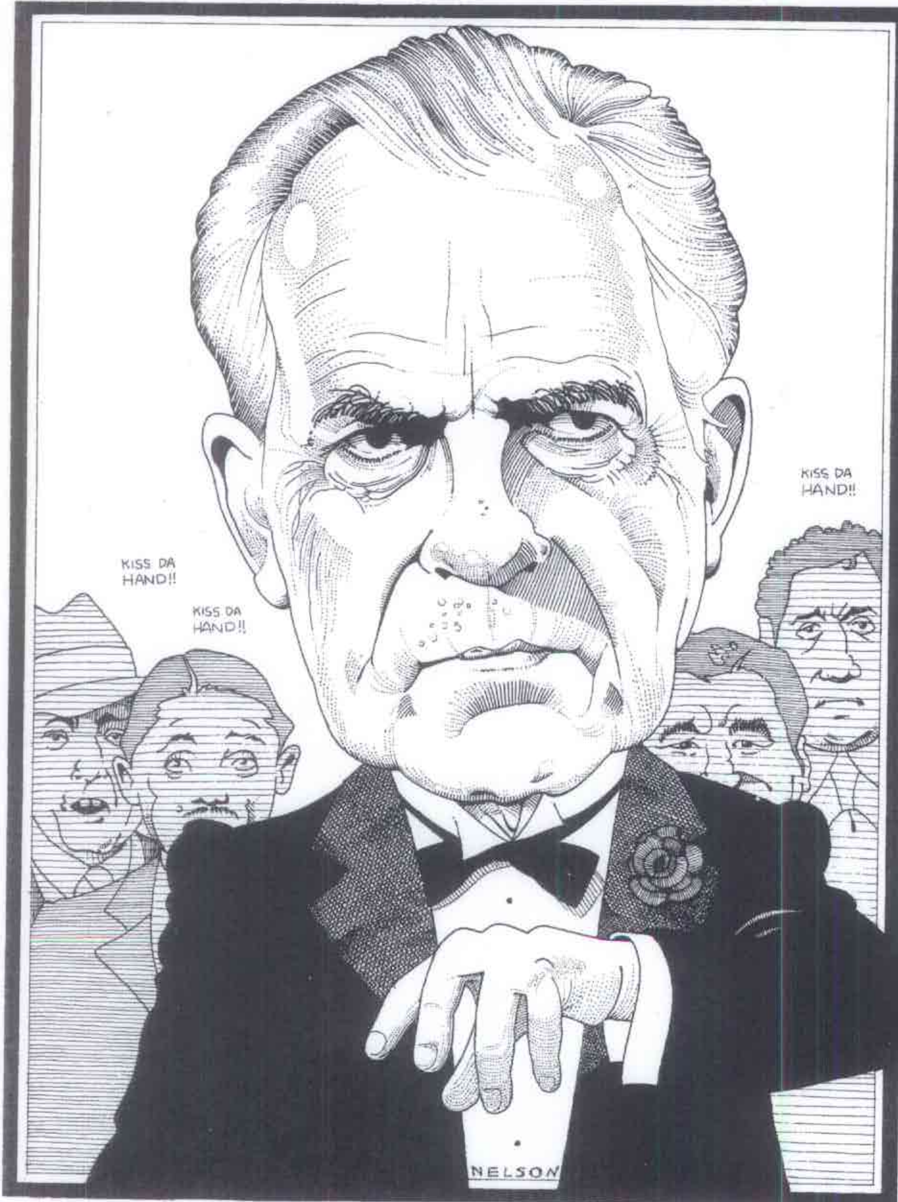
Dean does not recognize in the transcripts the complications of Nixon's position. He does not see that the reason Nixon asks so many questions in their meetings is again not that Nixon is uninformed, as Haig and Ziegler have subsequently tried to claim and as Dean himself seemed to think. Rather, he wants to find out just how much Dean knows, how informed Dean has become in his conversations with others about possible links and connections. On March 17, for instance, Dean brings up the break-in at Ellsberg's psychiatrist's office. At the beginning of the conversation Nixon himself acknowledges the connection between Hunt and Ehrlichman and yet goes on to express bewilderment at how Ehrlichman could be involved in so harebrained a scheme. Under the circumstances of knowing about Ehrlichman's connection, he makes what can only be a disingenuous remark designed to force Dean into exposing his knowledge of connections among the incidents:

P: I can't see that [the Ellsberg matter] getting into this hearing.
D: Well, look. No. Here's the way it can come up.
P: Yeah.

Obviously Nixon is not trying here, as Haldeman and Ehrlichman have claimed, to determine the degree of Dean's own culpability, since no one then or subsequently ties Dean to the Ellsberg-Ehrlichman matter. It is irrelevant, too, that Dean, again as Haldeman and Ehrlichman claimed before the Ervin committee, is sometimes unaware that Nixon is often merely hypostatizing. Here, as in later conversations with Henry Petersen, Nixon is simply playing dumb in order to discover when threads of connection might, at any moment, be leading toward an exposure. He will go to ludicrous extremes in the process. For example, on March 21, having already been told only four days earlier that the CIA has come into possession of a snapshot of Liddy standing in front of the office of Ellsberg's pyschiatrist, the following exchange occurs:

P: Who else do you think has–
D: Potential criminal liability?
P: Yeah.
D: I think Ehrlichman does. I think uh–
P: Why?
D: Because of this conspiracy to burglarize Ellsberg's doctor's office.
P: That is provided Hunt breaks?
D: Well, the funny–let me say something interesting about that. Within the files–
P: Oh, I thought of it–the picture!

Little boy blue. When moments earlier the President had said "complete disclosure, isn't that the best way to do it?" he is meaning no more than he has ever meant. He means disclosure of what is already known or about to be disclosed anyway. Nixon's powers of simultaneous manipulation for his various purposes is a dramatically compelling exercise in intellectual agility and self-control. His performance makes any interpretation of the transcripts disconcertingly unstable. The problem isn't merely, as usually proposed, that he and his closest aides indulge in scenario sketching and the testing out of options. When this happens there's no mistaking it, and the occurrences would not of themselves seriously confuse the determination of liability. What really confuses any search for the truth is the over-all manner of the conversations involving the President, their general tone and tactical inclination. These are the factors which inhibit determinations of specific matters, such as the payment of hush money. And yet, at the same time, they confirm beyond any reasonable doubt that



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the President was engaged in a cover-up. To put it another way, if the manner of the President as exhibited in the transcripts poses a problem for those who want to draw up a particularized bill of indictment, it poses no less of a problem for those, like Mr. St. Clair, who want to argue for the President's general exoneration. The more any defender of the President insists on the indeterminate nature of the President's conversations, the more he would have to agree that the indeterminacy derives either from the President's ignorance and his desire merely to elicit information—an untenable position, it seems to me, on grounds I've just laid down—or he would have to agree that it is evidence of the maneuverings of a man in the know trying to find out how much others are getting to know.

It is also apparent, and important, however, that the way the President conducts himself in these conversations doesn't seem at all out of character to the little clan to whom he is talking. Dean, in his testimony before the Ervin committee, found only one of the President's conversations so "leading" as to make him suspect it was being taped, and his evidence is based mostly on Nixon's movement to one side of the room in order to mutter that "I shouldn't have talked to Colson about immunity." Dean never seems as acute as either Haldeman or Ehrlichman in catching the degree to which the President's speech consisted of indirections to "find direction out."

An amusing example of this, and of the difference in response to it on the part of the three most important of the President's auditors, occurs in the conversation late in the afternoon of March 21. Dean has just told Nixon that everyone is starting to protect "their own behind." Nixon begins by responding as if, in consequence, he means to start looking more carefully after his:

P: Maybe we face the situation. We can't do a damn about the participants. If it is going to be that way eventually, why not now? That is what you are sort of resigned to, isn't it?"

Dean allows himself to be credited, illegitimately, with what is in fact the President's own apparent brutality, and proceeds to court favor by pushing himself further onto a limb the President is already preparing to cut off:

D: Well, I thought (inaudible) by keeping on top of it it would not harm you. Maybe the individuals would get harmed.

Nixon has managed to elicit his cue for a bit of the old moral unction, which didn't, of course, prevent him from scuttling one loyal follower after another, or from effectively disposing of Dean in the very exchange in which he now is able to say, "We don't want to harm people either. That is my concern. We can't harm these young people (inaudible). They were doing things for the best interest of their country—that is all."

Haldeman seldom gets taken in by such maneuvers, since, after all, he is in them already, and Ehrlichman is marvelously adroit at playing the whole field. Masticating there like a wise pouchy frog, often saving himself for a summary statement, Ehrlichman comes in on this occasion moments later, and while proposing an option which might help Nixon escape an eventual charge of covering-up, he neatly adapts Nixon's comment about "young people" to the P.R. purposes for which it was originally intended: "The President then makes a bold disclosure of everything he then has," Ehrlichman begins, and the word "bold" has a facetious wit that belongs to the cynicism of the whole conversation. "And is in a position if it does collapse at a later time to say, 'I had the FBI and the Grand Jury, and I had my own Counsel. I turned over every document I could find. I placed my confidence in young people and as is obvious now (inaudible).' "

Assuming full presidential knowledge, the conduct of conversation in the tapes begins not only to make sense but to become an exciting personal drama

The environment of the Oval Room and of the Executive Office Building as it emanates from the transcripts helps us understand the strategies by which Nixon transforms even a man like Haig into a replica of Ziegler, a man who totally confuses loyalty to Nixon with loyalty to the country. This happens, in part, one might guess, because Nixon manages to let his aides confuse themselves with him, their subordinate function with the functions of the presidency. So that finally Nixon's self-interest is also theirs *and* the nation's. It is not the palace guard which captures the President, as Mr. Cox sometimes supposes, but the President who continually seduces the palace guard. While the effects of this claustrophobic way of running the country are increasingly disastrous, there is at least some ironic justice in the fact that the very reason why it has been exposed is that the Watergate break-in, a wholly self-interested enterprise, became inextricably linked to the break-in of Ellsberg's psychiatrist's office,which was presented as in the interest of "national security." Furthermore, the existence of the tapes themselves attests to the confusion of wholly private with putative public profit: on the one hand, the tapings were initiated, it is claimed, for historical purposes, while, on the other, it is known that one of the President's tax lawyers, Frank DeMarco, advised him that the tax law of 1969, under which he may be charged with fraud for the attempted write-off of "contributed" letters and documents, does not cover the "contribution" of what is elegantly referred to as "non-paper memorabilia."

Nixon's entire political career was initiated, under the guidance of Murray Chotiner and in the contributory anti-Communist hysterias of the late '40s and early '50s, by his use of the same cover of "national security" which he tries to evoke now. Jerry Vorhees was disposed of in 1946 on Nixon's way to the House, Helen Gahagan Douglas on his way, two years later, to the Senate, partly by a subtle use of the Red-smear tactic, assisted in the latter case by the racial as well as political slurs of Gerald L.K. Smith, who was brought in to "help Richard Nixon get rid of the Jew-Communists." The road was clear to the Un-American Activities Committee, to Hiss, to fame, the vice-presidency—and to Watergate. Domestic political trickery and claims of national security—the combination of the Watergate break-in with the break-in at Ellsberg's psychiatrist's office—were from the beginning of Nixon's career his special opiate for the people.

He did not of course operate in a vacuum. The Red-baiting of the '30s and not Nixon himself created the conditions in which he has flourished. For the reason that he has always been what he now is and that this has always, eventually, paid off, it is difficult and probably impossible for him to know one particular thing about himself: that from the start he has been a conspirator *within* the establishment, making use of the political methods to which it lent its dignity, no matter how much he believes he has operated outside it. It is a curious and complicated matter. Even while citing precedents in the transcripts for the misuse of federal agencies and the IRS by Johnson and Kennedy, even while being cynical about earlier evocations of "national security" and "executive privilege" (both of these being liberal inventions of the Eisenhower

years), even while being fully aware that his own inside knowledge of the tax write-off that Truman arranged for Eisenhower is one of the things that forced Eisenhower to keep him on the ticket after the Checkers speech hinted at exposure—even knowing all this, he is still the ungrateful enemy of what he calls the establishment. In a conversation with Dean on March 13, wherein he says, "No one is a friend of ours. Let's face it," he also talks about the scandals over Segretti's dirty tricks and the

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Watergate "caper" as "the last gasp of our hardest opponent. They have just got to have something to squeal about . . . the basic thing is the establishment. The establishment is dying, and so they've got to show that despite the successes we have had in foreign policy and in the election. They've got to show that it is just wrong just because of this. They are trying to use this as the whole thing."

Nixon is notorious for being happiest in an adversary role, and yet he is also known as a man whose language, despite some tiresome expletives, is usually bromidic even for a national politician of the '70s. The seeming contradiction of his being extraordinarily powerful and just as extraordinarily banal is resolved by the fact that as an adversary of the establishment—by which he seems to mean old money, the silk-stocking liberals, the Eastern law firms (of which he was nonetheless a member), the socially immobile respectables—he is unusually adept at mimicking their tones, even if in the manner of a maitre d' who's struck it rich, and in using the methods by which they controlled the nation and by which they endowed the presidency with the very powers that awaited Nixon's exploitation.

In manipulating these by now customary practices and vocabularies, like those of "national security" and "executive privilege," he has managed to separate them from the subtle, the socially and intellectually discreet "cover" provided by the networks of the establishment and to turn them into the conspiratorial practices of an insulated clique, a gang with no previous political loyalties or experience outside of its service to him. The result is the exposure not only of himself but of his immediate predecessors and, for those who take a staunchly revisionist view of our history, of most American presidents back to George Washington. Nixon has discredited both their basic methods of operation and their vocabulary; he has blown the "cover" of the system itself.

These devastations are in direct proportion to the fact that Nixon, for all his impressive brilliance of mind, does not exist for the imagination. By that I mean that his essential non existence increases the danger already evident in a nation which, faced with increasing shortages, has already begun, for a change, to ask radical questions about the whole economic and political setup. There is now a good chance that people who find in Nixon an inadequate scapegoat will transfer still more of their contemptuous suspicions to the system. Even during the planning for the election in 1968, one of the brightest of Nixon's campaign analysts, Kevin Phillips, predicted to Garry Wills how things might develop and how Nixon figured as a kind of cipher in the prospect. "There will be no landslide this year," he said of 1968. "No charisma. The only mystique that can be built around Nixon is the mystique of the non-mystique. This will be a realignment victory; the trends will take him in. But you watch us in '72. . . . I'd hate to be the opponent in that race."

The venalities exposed in the transcripts are themselves part of the "trend" that spawned and still sustains Nixon. They will have succeeded even more brilliantly if we fail to insist on the kinds of "connections" which Nixon has been trying to prevent our making, "connections" which reach beyond the immediate scandals, beyond Nixon himself, and lead us into the thickets of our political and economic system. Nixon, and especially these bits of him which are found in the transcripts, is simply not all that we might want to project upon him, and we should not sacrifice him or ourselves to that illusion. The transcripts only testify to the need for the self-searching that ought to attend the impeachment and Senatorial trial of a man to whom the nation gave, only months ago, the largest plurality in its history. And if Nixon is found innocent, then all the more and all the more beneficially we may begin, just at that point, to discover the degree to which our society is perhaps both sicker and more guilty than he is. ●