

Clayton Fritchey

The Unfinished Hearings

Considering the remarkable success of the Senate Watergate investigating committee in developing unexpected evidence against the administration, it is not surprising that the President wants to end this broad congressional dragnet in favor of a more restricted exercise in the courts.

Nor is it surprising that in the wake of Mr. Nixon's latest Watergate remarks the White House has been promoting a national effort to generate support for the new presidential theme: "The time has come to turn Watergate over to the courts . . . The time has come for the rest of us to get on with the urgent business of our nation."

Even Mr. Nixon's daughters have been out spreading the word. Since the line has a certain superficial plausibility, it may excite some public backing and may even soften up one or two members of the committee headed by Sen. Sam Ervin (D-N.C.), who are either against the investigation for partisan reasons or who come from Nixon strongholds.

Despite this, there is little or no chance of sidetracking the hearings, especially now that the polls taken after the President's speech show so much confidence in the Ervin committee and so little confidence in what Mr. Nixon has said.

The courts, of course, do have an important prosecutorial role to play in the Watergate drama, but it is no substitute for the much broader responsibility of the Senate committee to explore all aspects of this attack on constitutional government, to educate the public on its significance and, finally, to recommend legislation which will protect America against another Watergate.

The mission of the Ervin committee is far from completed. Indeed, the second and third phases of the investigation, as originally planned, may contribute more to the commweal in the long run than the sensational testimony of the recently ended first phase.

The hearings to come are to deal with (1) the so-called "dirty tricks" operations, some of which may not be within reach of the courts because, although sordid, they are not necessarily illegal, and (2) the buying and selling of the government through hidden campaign funds, some of which may also be beyond the law.

Special Watergate prosecutor Archi-

bald Cox, if he is not interfered with, can be counted on to indict and prosecute vigorously the principal malefactors in the Watergate scandal, but, in perspective, it won't matter greatly whether the defendants get long or short sentences, or even if they get probation or suspended sentences. What matters for the future of the country is total exposure of the whole mess, and that can only be done by the Ervin committee.

The President would be happy to see everything turned over to the courts for, very properly, the courts are confined to the narrow focus of the counts in whatever indictments are returned. Mr. Nixon then would not have to worry over the kind of wide-ranging but relevant explorations that prod-

uced the bombshells at the Senate hearings.

Probably the most damaging development of the hearings is the almost accidental discovery that the President had bugged his own offices, which meant there were tapes of his critical conversations with his assistant, John Dean. The President's refusal to make the tapes public has now become the crux of the case.

It is highly unlikely that the tapes would ever have come to light through an ordinary criminal investigation or trial. Like a number of similar committee discoveries, the tapes were uncovered because the committee has such a broad mandate that it can probe without inhibition, and this it has patiently, sometimes imaginatively, done to great effect.

Mr. Nixon's insinuation that Congress is neglecting the nation's busi-

ness because of the Watergate hearings is without foundation. Millions of television viewers can testify that the hearings were recessed countless times while the senators went to the floor to vote on important bills. During the course of the hearings there were 228 roll-call votes in the Senate and 216 in the House—a fast pace by any standard.

The public reaction is reflected in the latest Gallup Poll which shows a high rating for all members of the Ervin committee, ranging from 69 per cent to 84 per cent "favorable." John Gardner, president of Common Cause, seemed to be speaking for the great majority when in calling for continuation of the hearings he said, "The greatest political scandal in our history with a missing last chapter is unthinkable. The American people would never stand for it."

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Tom Braden

Where Is the Nation's Outrage?

Pat 8/25/73

"You get the impression that the people are not very angry about Watergate."

John Gardner remarked the other day that one of the post-Watergate problems was the problem of staying angry enough to do something about it. It is a useful reminder. No major reform in our history has ever been accomplished without anger.

Our own revolution, for example, began with the angry cry, "No taxation without representation," and much of the Declaration of Independence is an angry, sweeping accusation of the king.

During the Jacksonian era hundreds of thousands of angry Westerners democratized the federal system.

Slavery was put down in anger. "Trampling out the vintage where the grapes of wrath are stored" pretty well summed how most Northerners felt about the issue, no matter what scholars say about the economic causes of

the Civil War. The reforms which followed the Great Depression—Social Security and insured savings accounts, for example—were eminently logical in themselves, but they might not have been enacted without anger.

So it's a useful weapon, societal anger. But if you read the newspaper editorials, the letters to the editor and the syndicated columnists, you get the impression that the American people

are not very angry about the first systematic attempt in history to undermine their judicial process, defy the constitutional powers of their Congress, trample on their First and Fourth amendments, manipulate their system to punish "enemies" and reward friends—in sum, to destroy their form of government.

One wonders why. Is it because, as Gardner suggests, there is a "frighteningly large" number of people who don't pay attention to their form of government and presumably won't do so until some larger-than-life H. R. Haldeman throws them in jail for not being positively "loyal"?

Or is there an element of embarrassment at work? Are we somewhat

ashamed at our own lack of vigilance and inclined, therefore, to go along with the President and let the thing go to the courts, where the President can't be asked any more questions which might further embarrass him—and us?

Maybe it's because Watergate did not frighten us enough. The system exposed it, everybody is saying, and that's true if you can call an alert guard, a couple of good reporters and a courageous newspaper publisher a "system." Do such fortuitous circumstances really prove that it can't happen here?

One more possibility—maybe a lot of Americans secretly admire tricks and deceit by the powerful so long as they consider themselves on the side of the powerful. Mr. Nixon's argument that violations of law by protesters during the 1960s explain and even partially excuse violations of law by representatives of his "new majority" during the 1970s has a faintly familiar ring. Remember the Nazi argument that violations of the German constitution were

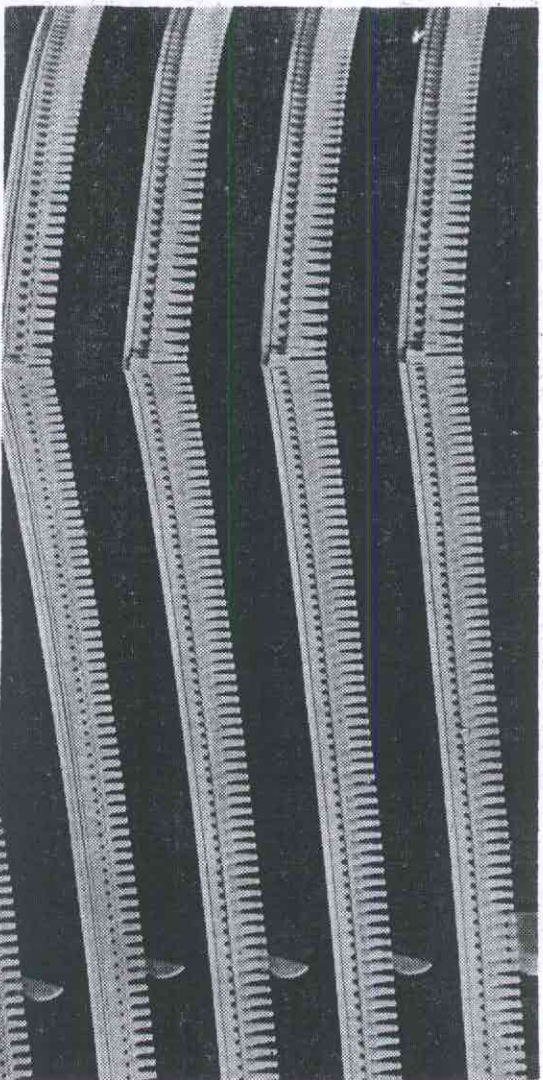
necessary because the Communists had previously behaved so badly?

I don't know which of these possible explanations for our lack of wrath makes sense. It seems to me that if Americans any longer had much capacity for anger, the nation would have risen in one loud jeer at Mr. Nixon's clinching argument in his Aug. 15 televised speech: "If you want the mandate you gave this administration to be carried out—then I ask for your help to ensure that those who would exploit Watergate in order to keep us from doing what we were elected to do will not succeed."

"Exploit Watergate"? There he goes, questioning everybody's motives again. What does he mean? That trying to discover what his administration has done to the country—and trying to discover it against every obstacle he can raise—is unwarranted and unfair?

In Andrew Johnson's day that remark would have been called "effrontery." And Andrew Johnson was summoned before the House for less than effrontery, and for a great deal less than the high crimes Mr. Nixon's men have committed.

But nobody gets mad any more. What's matter with us? Are we tired, or old?



Reel of tape at the Watergate

William S. White Recovering From Watergate

President Nixon, as it seems to me, is now beginning the slow climb back up the hill, granting that he has got a long way yet to go. He may indeed be able to put Watergate behind him in a pretty tolerable sense.

His California press conference was in the most striking contrast to his earlier speech to the country on Watergate. The speech was surely one of his less successful efforts — perhaps because it was not really so much a personal as a kind of corporate White House effort — and was extraordinarily weak upon what is, in fact, the President's strongest case in this whole affair.

This is his determination to keep Presidential papers inviolate, unpopular though that course certainly is at the moment. Here, no matter how skeptics may regard his motives, he has been and is defending the integrity of constitutional government, specifically

ally the indispensable separation of powers.

It was, therefore, disappointing that the President's explanation of his refusal to hand over those famous tapes was mixed up with talk about the right of privacy as between client and attorney and priest. Drawing analogies of this kind blunts the one relevant point which, of course, is that the whole institution of the presidency would be irreparably weakened if a precedent were set that its confidential files were to lie at the mercy of outside inquirers. And still worse, such analogies plainly connote guilt or, at best, the possibility of guilt.

Pentents don't go to confession because they feel innocent; they go for precisely the reverse reason. And while it would not be fair to say that a man does not retain a lawyer simply because he is a guilty man, he surely

does not hire counsel unless he has a lively notion that guilt is going to be imputed.

So much, then, for the earlier speech. San Clemente could hardly have been more different — again perhaps because it all came out of the President's personal hat and not out of the White House speechmaking apparatus. There Mr. Nixon dodged no tough question; responded with some anger but with no lack of poise; showed that while he damned well didn't like some things that were happening to him he was very far from being any case of combat fatigue.

A personal estimate such as this one of mine is necessarily subjective and admittedly comes from a man who wants the President not to be guilty of any real wrongdoing and who recoils in horror from the very thought of seeing this country governed by a truly crippled, executive for nearly four more years.

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Simply stating these facts as due the reader, and making no sort of apology for any of them, I finished hearing and then carefully reading the San Clemente transcript with strong doubt that the President really did know in any genuine sense of that Watergate coverup. I never did, by the way, believe that he had any knowledge whatever of the idiosyncrasy of the break-in itself. Most of all, perhaps, and without a chemical trace of partisan feeling, I felt relieved to see that the President, whether badlie or goodlie for that matter, was well in charge of affairs and in no sense some neurotic or whimpering victim of the ghastly misfortunes that have befallen him. Perhaps, too, the whole episode ought to make Mr. Nixon reappraise his attitude toward press conferences. This one surely did him nothing but good—and, one suspects, the country as well.