

# The State of the Presidency

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IT WAS A VERY ordinary and conventional State of the Union address, delivered in the most extraordinary and unconventional of circumstances. That, in fact, appears to have been the President's purpose: to create an illusion of normality, to drown out the ugly, insistent sounds of weakness and scandal in the familiar sing-song we have all come to recognize over the years as State of the Unionese. So all the old and eminently forgettable formulations were there—the recital of accomplishment, the promise of easy solutions to difficult problems, the shopworn commitment to peace and prosperity as if these were somehow novel and distinctive goals for a President to have. There were the guaranteed, tried-and-true applause-getting lines. And there was, of course, in consequence, the applause. It was, in short, a ceremonial event, much as the announcement of Gerald Ford's nomination in a glittering East Room extravaganza last fall was ceremonial: the ceremony was invoked as a kind of all-enveloping blanket, one that might serve to muffle the very disagreeable truths and troubles that were on everybody's mind. Last fall it was the disgrace of Mr. Agnew. Wednesday night at the Capitol it was Mr. Nixon's own past failures and uncertain future prospects.

Thus, not until the very end of his lengthy address did the President mention the unmentionable—Watergate. And even then he did so only by way of making a distinction between the Watergate crimes that have shattered and enfeebled his administration and those "great issues" that he considers fit for the attention of the American public. This is a distinction Mr. Nixon has been trying vainly and wrongheadedly to establish almost since the beginning of this dismal affair, and elsewhere on this page today we have assembled a brief chronology of this effort.

It seems to us that there are two aspects of the President's effort over the past many months that are particularly relevant to the renewed attempt he made in his State of the Union address Wednesday night. One is that the President's pre-emptory declarations that the Watergate matter should long since have been laid to rest have neither the force of magic nor the force of law. Indeed, they seem invariably to be followed by new revelations and/or new crimes and improprieties. The other is that the state of political and governmental limbo which has been created by Mr. Nixon's own reluctance to pursue the facts of the scandals has become very much a part of the public business—very much a factor in any reasonable or practical discussion of the State of the Union. For by now we have seen evidence of a gross disfiguration of government institutions and of official morality under Mr. Nixon's administration. We have seen, as well, a continuing, systematic effort on Mr. Nixon's part to evade an accounting to the public

for what went wrong. And we have seen, in consequence, a condition of widespread paralysis in the government over which Mr. Nixon presides. True, the administration has prepared a budget; Dr. Kissinger has performed admirably in seeking accommodations in the Mideast; and evidently new programs have been fashioned and have worked their way around the bureaucratic shoals. But in that critical part of the presidential role which calls upon the President to resolve great and divisive policy issues within the executive branch, to bring influence to bear upon Congress forcefully and persuasively, and to present himself as a secure and commanding figure on the world scene, it is an inescapable fact that the unresolved questions arising from that array of misconduct called Watergate are undermining his capacity to function.

We call a surprise witness in this connection. It is Mr. Nixon himself. For again and again he has raised the prospect of a weakened and diverted presidency as

one of the fearsome prices we may have to pay if the Watergate issue is not speedily laid to rest. To be sure, the President, intent upon demonstrating that he can and does still govern, has not gone so far as to concede that the worst has come true, that he has, in fact, been rendered helpless to deal with the grave pressures of, say, the energy crisis or an unruly economy. But he has vividly suggested that continued concern with the corruption issue could easily and quickly bring the worst to pass. He said as much on Wednesday night:

*... the time has come, my colleagues, for not only the executive, the President, but the members of Congress, for all of us to join together in devoting our full energies to these great issues that I have discussed tonight which involve the welfare of the American people in so many different ways as well as the peace of the world.*

It is a sentiment with which we wholeheartedly agree, even as we agree with Mr. Nixon's other observation, "one year of Watergate is enough." Where we think the President is so desperately wrong is in his calculation of what has prolonged and continues to prolong the Watergate agony.

In this respect one need only consider that more than half of the elapsed year Mr. Nixon so regrets has been largely consumed by a struggle by the Special Watergate Prosecution Force to extract relevant documentary evidence from Mr. Nixon's White House and to account

for the disappearance and destruction of some subpoenaed evidence. It is, in fact, Mr. Nixon's own resistance to a full investigation of the Watergate squalors that has been the principal cause of delay.

That is not the way the White House tells it, of course; the official line is that the Watergate uncertainties are being kept alive by some small and "inspired" group of political "grudge fighters" who are seeking to exploit the President's troubles for partisan advantage. But this line of argument necessarily ignores the fact that a number of irreversible constitutional processes have been called into play, some by the President. Mr. Nixon authorized the appointment of a Special Prosecutor; he asked that the Joint Committee on Internal Revenue Taxation in effect audit his tax returns; he suggested that Watergate, as it affected various members of his official family, be turned over to the grand juries and the courts; as to his own possible involvement, it is his lawyers who have argued that this matter can be dealt with only by means of the impeachment machinery that has now been set up by the House. Having managed, one way and the other, to thwart or delay the efforts of almost all these instrumentalities, Mr. Nixon now announces that their time is up.

The situation that has thus been created goes very much to the heart of the general subject Mr. Nixon discussed the other night: the State of the Union. And we will turn shortly to the programs and policy matters that were outlined in the President's speech, for, in ordinary times, they are the soundest guide to a President's perception of what the state of the union is. But first things first, for when the President speaks of harnessing "our full energies . . . to great issues" he seems not to recognize that great national exertions depend for their strength on a generous measure of public confidence in those presiding over our public affairs. That is what was missing from Mr. Nixon's State of the Union report—any awareness on his part that, more than at any time we can remember, the State of the Union is now being determined by the particular state of his presidency.

Mr. Nixon on Watergate:

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# An Issue That Won't Be Talked Away

"Some people, quite properly appalled at the abuses that occurred, will say that Watergate demonstrates the bankruptcy of the American political system. I believe precisely the opposite is true. Watergate represented a series of illegal acts and bad judgments by a number of individuals. It was the system that has brought the facts to light and that will bring those guilty to justice—a system that in this case has included a determined grand jury, honest prosecutors, a courageous judge, John Sirica, and vigorous free press.

"It is essential now that we place our faith in that system—and especially in the judicial system . . .

"It is also essential that we not be so distracted by events such as this that we neglect the vital work before us, before this nation, before America, at a time of critical importance to America and the world."—President Nixon in a television address, April 30, 1973.

*Two days later, at the Pentagon Papers trial in Los Angeles, Judge W. Matthew Byrne Jr. gave the defense an FBI summary of an interview with John D. Ehrlichman. It disclosed that Mr. Nixon had ordered an independent investigation of defendant Daniel Ellsberg which led to the burglary of his psychiatrist's office by a special White House unit called the "plumbers." Byrne also acknowledged two meetings with Ehrlichman (and a handshake with Mr. Nixon) early in April to discuss his possible interest in the job of FBI director.]*

"Let me say, I didn't get where I am by ducking tough issues . . . I'm keenly aware of the fact that many Americans — everybody in this room, for example — are concerned about the developments that we've been reading about and hearing about in recent weeks and recent months . . . I will simply say to you tonight that this nation — Republicans, Democrats, Independents, all Americans — can have confidence in the fact that the Attorney General, Elliot Richardson, and special prosecutor that he will appoint in this case will have the total cooperation of the executive branch of this government . . .

"I also want to add a word with regard to what all this is going to mean to the next three-and-a-half and a bit more years that we have in office as a result of the election last November. I can assure that we will get to the bottom of this very deplorable incident . . . But the most important thing I want to say tonight is this: We are not going to allow this deplor-



able incident to deter us or deflect us from going forward toward achieving the great goals that an overwhelming majority of the American people elected us to achieve in November of 1972." — Speech to Republican dinner, Washington, May 9, 1973.

*[The following day, a New York grand jury indicted former Attorney General John N. Mitchell and former Commerce Secretary Maurice H. Stans in connection with Robert Vesco's \$200,000 contribution to the Nixon reelection campaign. On May 17, the Senate Watergate Committee opened its hearings and John Dean alleged that Mr. Nixon had some knowledge of the coverup. The committee also heard of efforts to involve the CIA in the coverup, as well as the details of secret campaign funds and "dirty tricks," and of White House efforts to use the IRS against those on an administration "enemies list."]*

"Considering the number of persons involved in this case whose testimony might be subject to a claim of executive privilege, I recognize that a clear definition of that claim has become central to the effort to arrive at the truth. Accordingly, executive privilege will not be invoked as to any testimony concerning possible criminal conduct or discussions of possible criminal conduct, in the matters presently under investigation?, including the Watergate affair and the alleged coverup. I want to emphasize that this statement is

limited to my own recollections of what I said and did relating to security and to the Watergate. I have specifically avoided any attempt to explain what other parties may have said and done. My own information on those other matters is fragmentary, and to some extent contradictory. Additional information may be forthcoming of which I am unaware."—Statement, May 22, 1973.

*[In that same May 22 speech, Mr. Nixon confirmed that he had approved a plan for domestic intelligence gathering—which included breaking and entering—during the spring of 1970. It was withdrawn when, FBI Director J. Edgar Hoover objected. Mr. Nixon also discussed the creation of the "plumbers" unit and his fear that Watergate probes might unravel CIA operation. During June and July, the Watergate hearings continued. On July 16, former White House aide Alexander P. Butterfield revealed that Mr. Nixon had been secretly*

recording all conversations in his White House office since early 1971. When Special Prosecutor Archibald Cox and the Watergate Committee both asked for some of the tapes, the White House refused, claiming, among other things, executive privilege.]

"There are these and other great issues that we were elected overwhelmingly to carry forward in November 1972. And what we were elected to do, we are going to do, and let others wallow in Watergate, we are going to do our job."—Speech to the White House staff, July 20, 1973.

[On Aug. 6, Vice President Agnew was reported under federal investigation on charges of bribery, extortion and tax fraud in connection with state building contracts in Maryland. The same day, the government reported spending \$4,000,000 for improvements, all in the name of "security," at Mr. Nixon's Florida and California homes.]

"The point that I make now is that we are proceeding as best we know how to get all those guilty brought to justice in Watergate. But now we must move on from Watergate to the business of the people, and the business of the people is in continuing with initiatives we began in the first administration."—Press conference, Aug. 22.

[A week later, Judge Sirica ordered Mr. Nixon to turn over to the court—for his private inspection—nine tape recordings of presidential conversations. The White House appealed and on Oct. 12, the Court of Appeals upheld Sirica's order. Meanwhile, on Sept. 5, Ehrlichman, Egil Krogh, David Young

and G. Gordon Liddy were reported indicted in California in the Ellsberg psychiatrist burglary. And on Oct. 10, Vice President Agnew resigned after pleading no contest to one count of income tax evasion.]

"... I have taken this step with the greatest reluctance, only to bring the issue of Watergate tapes to an end and to assure full attention to more pressing business affecting the very security of the nation."—Statement on Oct. 18

[On Oct. 19, Mr. Nixon decided not to appeal the court decision ordering him to hand over tapes of presidential conversations. He offered Cox a "compromise" which Cox refused; whereupon he ordered first Attorney General Richardson

and then Deputy Attorney General William D. Ruckelshaus to fire Cox and both resigned in protest. As acting Attorney General, the Solicitor General Robert Bork finally was prevailed upon to fire Cox. Within a few days, 84 resolutions dealing with impeachment were introduced in the House. On Oct. 23, as the protest grew, Mr. Nixon reversed his position on executive privilege and agreed to comply in full with the court order to turn the nine tapes over to Sirica.

[On Oct. 31, the White House informed the court that two of the nine recordings did not exist.]

"As a result of the deplorable Watergate matter, great numbers of Americans have had doubts raised as to the integrity of the President of the United States. I've even noted that some publications have called on me to resign the office of President of the United States. Tonight I would like to give my answer to those who have suggested that I resign. I have no intention whatever of walking away from the job I was elected to do."—Television speech, Nov. 7, 1973.

[On Nov. 21, the White House informed the court that yet another problem existed with the tapes—an 18½-minute segment of critical conversation between the President and H. R. Haldeman was blank. Presidential secretary Rose Mary Woods testified that she might have caused five minutes of the gap. A group of experts examined the tape and subsequently reported that the 18½-minute erasure could not have happened the way Miss Woods said it did. The FBI was called in to investigate and the matter was handed over to the grand jury. Meanwhile, in December, Mr. Nixon released his tax returns which showed that he paid minimal taxes in 1970 and 1971, that he took a \$576,000 deduction for the gift of his vice presidential papers, and that he paid no state tax. The House Judiciary Committee set April as a target for completion of its impeachment inquiry and on Jan. 24 Egil Krogh, leader of the "plumbers" was sentenced to six months in jail for the Ellsberg psychiatrist burglary.]

"I believe the time has come to bring that investigation and the other investigations on this matter to an end. One year of Watergate is enough. And the time has come... for all of us to join together in devoting our full energies to these great issues I have discussed tonight..."—State of the Union Message, Jan. 30, 1974.

Stephen S. Rosenfeld's column will appear on Sunday.