

Brooke Terms Decision Serious Mistake by Ford

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WASHINGTON, Sept. 8—Reaction was sharply divided today over President Ford's pardon of former President Richard M. Nixon, but the division was not altogether along party lines.

Most of the Democrats who commented immediately expressed various shades of disapproval and dismay, while most Republican comments supported Mr. Ford's decision.

Two Republicans who disagreed with the action were Senators Jacob K. Javits of New York and Edward W. Brooke of Massachusetts. Both had been critical of Mr. Nixon in recent months, and Mr. Brooke was the first Republican Senator to call publicly for Mr. Nixon's resignation from the Presidency.

Senator Brooke issued a statement calling the pardon, without Mr. Nixon's full confession of his involvement in the Watergate scandals, a serious mistake.

Senator Javits said he had hoped that Mr. Ford would have waited for the courts to deal with the matter, but he added that the pardoning power was something between the President and his conscience.

Punished Enough

A spokesman for Senator Barry Goldwater, Republican of Arizona, said the Senator believed Mr. Nixon had been punished enough. The spokesman said Mr. Goldwater also thought it would have taken more than a year to get Mr. Nixon's case to court.

Mike Mansfield of Montana, the Senate majority leader, said he was disturbed by the circumstances that perhaps as many as 40 or 50 persons had either been indicted or sent to prison in the aftermath of the Watergate and related scandals, while the former President would not even be charged.

Senator Mansfield said the pardon would appear to be a presumption of guilt, and added that President Ford's action conflicted with his own deep belief that all men are equal under the law.

This latter aspect of the pardon was a recurrent theme among those who disagreed with Mr. Ford's decision.

Informed today by telephone of the pardon, Robert H. Me-

serve, former president of the American Bar Association, called Mr. Ford's action "incredible."

"Did he also pardon all of the subordinates who, under his [Mr. Nixon's] direction or with his approval, did the things for which they have been indicted and for which they are now serving jail sentences, some of them?" Mr. Meserve asked.

Mr. Meserve, now in private practice in Boston, succeeded Leon Jaworski as president of the A.B.A. for the year that ended in August, 1973.

In Oklahoma, James D. Fellers, the current president of the association, said his per- While conceding that the personal reactions were mixed, don was probably in the best interests of the nation, he said he had not expected such action until charges against Mr. Nixon had been more clearly defined.

Mr. Fellers's comments, in which he stressed that he was speaking for himself and not for the association, were relayed by a spokesman here.

Recurrent Theme

The view that the pardon was premature was also one of the recurrent themes of public reaction to Mr. Ford's action today.

"We don't even know what acts by Mr. Nixon the President is pardoning, because all the facts and all the evidence are not yet available," said Senator Walter Mondale, Democrat of Minnesota.

"Now, without the help of the legal process, we may never know the full dimensions of Mr. Nixon's complicity in the worst political scandal in American history even though the pardon itself is further evidence of his direct involvement," Senator Mondale said.

Senator Lowell P. Weicker

Jr., a Connecticut Republican who was a member of the Senate Watergate committee, said the pardon represented neither equal justice nor leadership in a government of laws.

Answering questions on the CBS "Face the Nation" television program today, Senator William E. Brock 3d, Republican of Tennessee, said President Ford "has taken a very tough road and taken it all

upon himself."
"It's one of the reasons I appreciate him," Mr. Brock added.

'Paid a Big Price'

In Tarrytown, N. Y., George Bush, retiring Republican national chairman, said he believed the nation would be better off "with this behind us," and that Mr. Nixon "has paid a big price already."

Last week, President Ford named Mr. Bush to head the United States mission in China.

Vice President-designate Nelson A. Rockefeller also spoke with approval of the pardon, calling it an act of compassion and courage.

Hugh Scott of Pennsylvania, the Senate minority leader, said the President had acted with great humanity to bring an end to an American tragedy.

"I believe it is a decision which will spare the former President and his family, and the nation further and unnecessary suffering," the Senator said in a statement he released.

Among lawyers outside the Government, some noted specialists in constitutional law expressed surprise and disappointment at President Ford's action.

Raoul Berger of Harvard University said he was profoundly shocked by the action.

"It's got to be written in letters of fire that transgressions even by the highest officer will not be condoned," Professor Berger said. "This pardon says there are no limits."

Philip B. Kurland, professor of constitutional law at the University of Chicago, said the pardon put Mr. Ford in a bad light, considering his statement a few weeks ago that he would let the matter proceed to final judgement. Professor Kurland said his reaction was one of shock and surprise.

James MacGregor Burns, professor of political science at Williams College, said issuance of a pardon before all the remaining facts were made public was, in effect, an unwitting cover-up of the cover-up.

Archibald Cox, who was dismissed by Mr. Nixon's special Watergate prosecutor last October, called the pardon regrettable and said it might lead to the conclusion that the law did not apply to those in high offices.

One of the harshest comments came from Aryeh Neier, executive director of the American Civil Liberties Union.

"If [President] Ford's principle has been the rule in Nuremberg," he said, "the Nazi leaders would have been let off and only the people who carried out their schemes would have been tried."

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