



BILL PIERCE

THE NATION

THE ADMINISTRATION/COVER STORY

The Fallout from Ford's Rush to Pardon

Throughout the most painful week of Gerald Ford's fledgling presidency, public protest continued to batter the White House. Far from easing after the first shock of Ford's precipitate pardon of Richard Nixon for any and all federal crimes committed during his presidency, the controversy grew. It was fed partly by Ford's refusal to explain further his mysterious reversal on his Executive intervention, partly by White House fumbling on whether all the other Watergate offenders might also be pardoned. Ford's inexperienced aides—almost all of whom had opposed the timing of the pardon—were left scrambling futilely to justify the President's action.

Squandered Trust. There was as yet no evidence that Ford's motives were other than high-minded and merciful. Indeed, some of the criticisms of his action were overwrought and hysterical. Suggestions that justice was dead in the U.S. or that Ford's Administration had been irrevocably compromised were exaggerations. Nevertheless, Ford's first major decision raised disturbing questions about his judgment and his leadership capabilities, and called into question his competence. He had apparently needlessly, even recklessly, squandered some of that precious public trust that is so vital to every President. By associating himself so personally with the

welfare of his discredited predecessor, he had allowed himself to be tainted by Watergate—a national scandal that the courts, prosecutors and Congress had labored so long and effectively to expose and resolve.

Thus, barely a month into his presidency, Gerald Ford found himself jeered by a crowd of pardon protesters outside a hotel in Pittsburgh, where he addressed a conference on urban transportation. They waved signs bearing such taunts as **THE COUNTRY WON'T STAND FOR IT**—a mockery of Ford's declaration about a pardon for Nixon, which Ford made during the Senate hearings to confirm him as Vice President. In an otherwise pleasant outing to help dedicate a World Golf Hall of Fame in Pinehurst, N.C., Ford faced more banners: **IS NIXON ABOVE THE LAW?** and **JAIL CROOKS, NOT RESISTERS.** Outside the White House, some 250 pickets from George Washington University lofted a bedsheet with the words **PROMISE ME PARDON AND I'LL MAKE YOU PRESIDENT**—a reference to a widespread cynical suspicion that Nixon as President had exacted a pledge of a pardon from Ford before naming him Vice President and putting him in the line of succession.

The protest was not of Nixonian or Johnsonian proportions or acidity, but it was in sharp contrast to the near-

universal era of good feeling that characterized Ford's first four weeks in office. A Gallup poll commissioned by the *New York Times* last week showed an alarming drop in Ford's popularity. From a rating of 71% approval three weeks before the pardon, he had skidded so that only 49% rated him as doing either a "fair" or "good" job. Unlike Nixon's White House aides, Ford's staff reported the extent of adverse telegrams and mail. More than 30,000 comments were received, and they ran about 6 to 1 against Ford's decision. Telephone callers were less critical; slightly more favored Ford's stand than opposed it.

Premature and Unwise. Of particular significance were the protests of judges, legal scholars, lawyers and political scientists who viewed the pardoning of Nixon as an arbitrary assault, however unintended, on basic principles of justice. By a vote of 347 to 169, the California State Bar Association denounced the pardon as violating the tenet "that all persons stand equal before the law" and claimed that it threatened to "undermine" the "American system of justice." Leaders of the City Bar Association of New York charged that Ford had acted "prematurely and unwisely" and bluntly urged him to "permit the administration of justice to proceed without further hindrance."

The pardon power, exercised by the

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President when federal law is involved and by Governors for state offenses, is commonplace in the U.S. The Justice Department gets some 1,000 applications for pardon each year. The department normally reviews each case, consults with the attorney who prosecuted the case and the judge who sentenced the offender, then recommends approval or denial to the President.

Few Precedents. Although presidential authority to pardon a person before he is charged with a crime seems to have been established by precedent, it has rarely been exercised. Most pardons are granted after conviction or after a person has served part of a prison term. Usually they are awarded to restore full civil rights to a convict so that he may be employed in certain businesses operating under government licenses (such as bars and banks). Federal rules

normally require an applicant to wait until three years after his conviction or release from prison to apply for a pardon. But in certain cases, such as those involving a public trust, the wait is usually five years. Since pretrial pardon is so rare, there are few precedents in which pardoning one member of an alleged conspiracy has affected the trial of others. Often, of course, one conspirator is granted immunity so that his testimony can be used against other defendants.

A surprising number of local judges cited the Nixon pardon as prompting them to treat offenders leniently. Los Angeles Municipal Judge Gilbert Alston ordered the release of a Viet Nam veteran who had held three hostages at rifle-point in Griffith Park during an alleged "combat flashback." Explained the judge: "If a man who almost wrecked

the country can be pardoned, this defendant can be released to get proper treatment." The release was countermanded by a higher judge. County Judge Kirk Smith pardoned two traffic law violators in Grand Forks, N.D., as "an act of clemency" in response to Ford's action. Federal Judge Marvin Frankel reduced a 30-day sentence for a New York tax evader to a \$1,000 fine on grounds that potential charges against Nixon involved far greater underpayments of taxes. From his federal district court bench in Chicago, Judge Hubert Will deplored the notion "that political criminals can get away with more than other criminals."

Serious Disappointment. It was obvious that Ford, by pardoning Nixon, had failed to achieve his professed desire to end "the bad dreams" of Watergate. Many Republicans who had ini-

Getting At the Truth of Watergate

Whatever the justification for the presidential pardon of Richard Nixon, President Ford erred grievously in sanctioning an agreement that gives Nixon control over access to his tapes and papers. Under its terms, only Nixon has the right to authorize the special prosecutor or anyone else to examine the vast, as yet largely untapped documentation of the Nixon years in the White House. Government permission is not required, though the Government is allowed to object on national security or other grounds to giving someone access to any of the materials.

The deal does nothing to prevent Nixon from contesting in the courts further efforts to get to the bottom of the scandals known collectively as Watergate. Given the ex-President's refusal to admit any guilt, he may indeed do everything to prevent access. For the sake of history and for the nation's peace of mind, justice should be seen to have been done in Nixon's case; the full and final record should be laid bare, as it was in Spiro Agnew's removal from office.

Ford's agreement with Nixon on the tapes, coupled with the pardon's elimination of any future disclosures in a trial of Nixon, makes it less likely that the record will ever be revealed. Special Prosecutor Leon Jaworski's final report will probably include some new details about Watergate but not all of the untold story. What can be done?

The pardon is irreversible, but Ford could revoke the tapes agreement. That would be the simplest solution. Ford seemed unlikely to negate the deal willingly, but many lawyers doubt its legality and expect it to be challenged in the courts. Jaworski would be in the best position to mount such a challenge. Indeed, at his request, the White House decided to halt the transfer of the tapes and doc-

uments to Nixon at least temporarily. But if the agreement stands, other means must be found to pry loose what still needs to be known.

In the first shocked reaction to Ford's deal with Nixon, there were some too-hasty proposals. One was that the Watergate grand jury be asked to go ahead and investigate and indict Nixon despite the pardon. Jaworski promptly and properly rejected that. Another was that Congress revive the impeachment proceedings and complete the formal record of Nixon's wrongdoing as President. House Judiciary Committee Chairman Peter Rodino just as promptly and properly dismissed that notion. Both ideas are flawed because they would involve employing constitutional processes for purposes other than the ones for which they were intended. The approaches would thus abuse those processes and, if Nixon resisted, might well be found invalid by the courts.

But at least three promising avenues do remain for getting at the truth of Watergate:

CRIMINAL TRIALS AND CIVIL SUITS.

The courts offer many opportunities for uncovering new details. More subpoenas could be issued to Nixon for tapes and documents needed as evidence in the criminal trials of his associates in the scandals, and the courts will certainly be sympathetic to such requests. Much further detail—though no bombshell revelations—is expected from the 55 tapes that the Supreme Court forced Nixon to produce for the cover-up trial of six former aides,

which begins Oct. 1 in Washington.

Nixon has been subpoenaed as a witness at the trial and perhaps may be called to testify in others. Legal experts believe that, for the most part, the pardon ended his right to refuse to testify on the grounds of self-incrimination. He can now plead that Fifth Amendment right only if his answers could be used



FEDERAL JUDGE SIRICA



PROSECUTOR JAWORSKI

tially supported the decision soon realized that it had revived Watergate as a political issue and could only help their Democratic foes in the November elections. They were incensed about the sudden reappearance of the issue just when they thought it had been banished by Nixon's departure. Theologians criticized the manner in which Ford linked his decision to prayers and "the laws of God." Similarly, in a typical riposte, Senator Sam Ervin noted that Nixon had not been required to admit his guilt in return for the pardon, and added: "The pardon power vested in the President exceeds that of the Almighty, who apparently cannot pardon a sinner unless the sinner first repents" (see TIME ESSAY page 35).

Probably the most widespread continuing reaction, however, was one of disappointment in Ford, who had

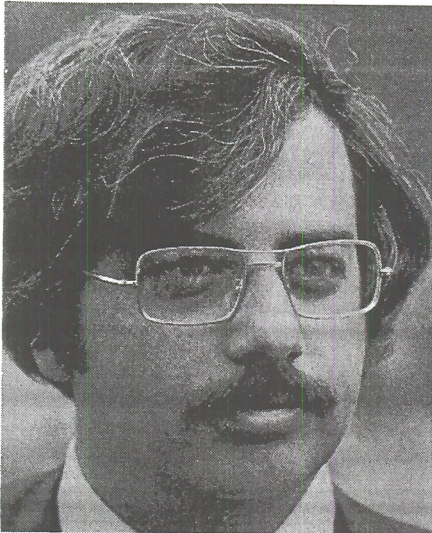
moved so swiftly to heal the nation's wounds caused by Watergate and the Viet Nam War. Now, unfairly but inevitably, his previously announced intention of seeking leniency for draft evaders and war deserters was seen by many as a calculated move to make a Nixon pardon more palatable. Those somewhat jesting earlier cracks about Ford's intellect were now reviewed in a more serious light. How could he have failed to perceive the ramifications—legal, political and moral—of his decision?

Muffin Theory. Undermined, too, was the pleasant notion that Ford, a direct, uncomplicated Midwesterner who used to prepare his own breakfast, is wholly unlike those crafty politicians who maneuver for personal prestige and luxuries during careers on either coast. Columnist George Will thus notes the death of the "English Muffin Theory of

History . . . that a President who toasts his own English muffins for breakfast is somehow different from the general cut of politicians."

Was Ford just another devious politician? Particularly among the young, the answer was a disquietingly prevalent yes. NIXON, FORD, ROCKY, THE SAME OLD SHIT, declared the complaint stenciled on an American flag at the University of Wisconsin. The Nixon pardon coming on the same day as Evel Knievel's canyon plunge, declared Wisconsin Student Michael Stiklstad, amounted to "the two biggest rip-offs of the public in one day in the history of the country."

Neither Ford nor his shaken staff moved effectively to calm the controversy or dispel the doubts about the way in which the President had reached his decision. For a time, the initial confu-



RICHARD THOMAS

PROSECUTOR'S COUNSEL LACOVARA

against him in some future state prosecution, which seems to be a rather remote possibility. Thus, scholars like Harvard Law Professor Alan Dershowitz expect "a gushing forth" of new evidence about Watergate from the trials.

In addition, private citizens claiming injury because of Watergate activities may well sue Nixon for damages. Dershowitz anticipates a number of lawsuits against the former President from "people who were surveilled, audited, wiretapped and so on." The plaintiffs will doubtless seek to subpoena evidence and force testimony from Nixon.

But court cases will probably provide only fragments of the secret parts of Watergate. The reason: Nixon can be required to provide only evidence and testimony that is relevant to each case. In the end, much of Watergate would probably still be hidden.

A COMMISSION. Ford could appoint a commission to lay bare the full Watergate story, much as the Warren Commission (of which Ford was a member) studied the assassination of President Kennedy. From Congress, the commission could obtain subpoena power to compel Nixon and his former associates to testify and surrender all of the evidence in their possession. Congress could also give the commission authority to grant witnesses immunity from prosecution so that Nixon's former aides, like himself, could not refuse to testify on the basis of constitutional rights against self-incrimination.

Nixon could still refuse to comply with the commission's subpoenas on grounds of Executive privilege. But he used that argument twice as President in his court fights over evidence—and lost both times. Ford,

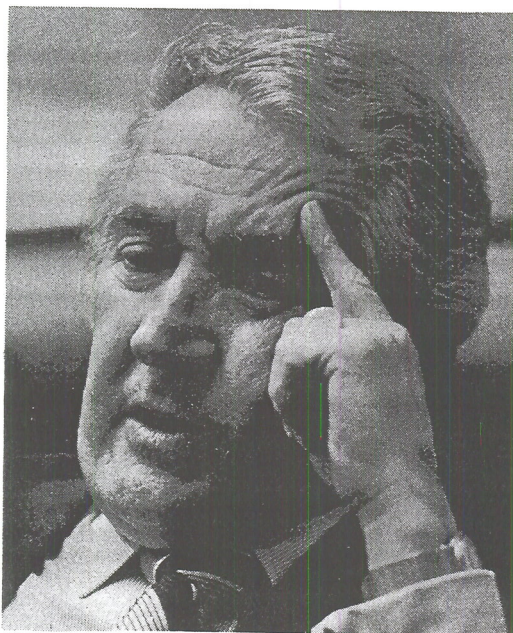
however, has shown no sign of being in the mood to create such a commission.

A CONGRESSIONAL COMMITTEE.

Congress could appoint a special committee, reactivate the Senate Watergate Committee or give an existing committee the authority to go after the remaining evidence to write a definitive history of Watergate. Such a congressional inquiry has already been discussed by several Democratic Senators, among them Edward Kennedy of Massachusetts, Walter Mondale of Minnesota and Adlai Stevenson III of Illinois.

The committee could be given the power to issue subpoenas and grant immunity from prosecution. There is precedent for Nixon to refuse to cooperate with a committee on grounds of Executive privilege. In 1953, President Truman cited the privilege in turning back a subpoena from the House Un-American Activities Committee. But the committee was investigating one of his appointments as President, and not his involvement in a well-documented criminal conspiracy, as is the case with Nixon.

New York Attorney and Princeton Professor Sidney Davis, an expert on congressional investigations, believes that "in terms of effective fact-finding, Congress has no peer." Further, a congressional committee would be wholly independent of Ford, which the President might welcome. Adds Constitutional Scholar Philip Kurland of the University of Chicago: "Depending on the committee's makeup and its financing, it could be very effective. Sam Ervin [who is retiring as a Senator] could be hired as counsel." There is a satisfying Shakespearean symmetry to the whimsical thought that the man responsible for many of the early Watergate chapters might get a chance to write the last one as well. In any event, someone must do it before, as Ford said, the book can be truly and well closed on Watergate.



BLACK STAR

JUDICIARY COMMITTEE CHAIRMAN RODINO

consciousness. The trial of a former President, while sensational for a time, would be far less traumatic than the impeachment of a sitting President. Nor did the pardon really "shut the book." In fact, it has inspired new proposals for pursuing the full truth of Watergate (see box page 12).

Ford might well have waited at least until indictments against Nixon were drawn, and detailed charges were on the public record, and then granted the pardon. While that would undoubtedly have drawn a heavy protest too, supporting the contention of Ford's aides that acting later might have been even more dif-

ficult, it would have spared Nixon the agony of a trial. The former President's surviving admirers would have resented his being grilled under oath in a court of law.

Ford's concern for Nixon's welfare was a more credible reason for the timing of the pardon. Accusations were hanging over Nixon's head "like a sword," Ford said, "and threaten his health as he tries to reshape his life." If he was prosecuted, he "would be cruelly and excessively penalized" and "Richard Nixon and his loved ones have suffered enough," concluded the President. Nixon has certainly suffered in

being forced out of office, of course, but election to that office is a public trust, not a position to which any man or woman can claim entitlement. Nor does the pardon really end Nixon's suffering. He must still testify in the conspiracy trial and can be prosecuted if he fails to testify truthfully.

Nonetheless, Nixon did gain a great deal in having the burden of prosecution lifted. As many Watergate defendants can testify, the astonishing costs of high-level legal defense are themselves a punishment. Sources close to Jaworski's office report that the conspiracy case against Nixon was virtually "iron-

Nixon: Depressed and Ill

In the debate over President Ford's pardon of his predecessor, the question of Richard Nixon's health emerged last week as a tantalizing issue. What role Nixon's mental and physical condition played in Ford's decision, and indeed what that condition was, were topics of conflicting reports and endless speculation. At week's end one fact became known: in a new attack of thrombophlebitis, Nixon has another painful blood clot in his left leg.

When he announced the pardon, Ford spoke of the allegations and accusations against Nixon as a threat to his health. Within the White House there was—and is—a widespread conviction that Nixon's state of health is precarious, and this view was apparently a factor in the President's decision to grant the pardon now. A report that Julie Nixon Eisenhower had made a tearful plea to Ford on her father's behalf was emphatically denied by her husband David, but other intermediaries could have brought Ford such a message. The President may also have been influenced by newspaper reports that Nixon was "terribly depressed."

Two days after the pardon, Tricia Nixon Cox's husband Edward telephoned the Associated Press to report that the former President "is in a deep depression" despite the pardon. Cox would not allow his name to be used in the report. Later in the week, David Eisenhower focused on his father-in-law's physical condition, which he said was poor.

Seeking sun and solace, Nixon had moved from one opulent California fortress to another. Just before the pardon was announced, he and Pat left fog-shrouded San Clemente and drove 150 miles east to the 200-acre Palm Springs estate of his friend Walter Annenberg, U.S. Ambassador to Britain. But his swollen and painful leg kept Nixon indoors, away from the 18-hole golf course and eleven gravity-fed lakes and pools. On Thursday night two helicopters carried the former President and his entourage back to San Clemente. The next morning Nixon's personal physician, Dr. Walter Tkach, flew in from Washington.

Tkach announced that he had found a new blood clot in Nixon's upper left leg. In an interview to be published next week in *Medical World News*, Tkach recalls that Nixon had had thrombophlebitis "at least once before, in the same place, in the same leg." Tkach says that he had feared a recurrence, especially because his stubborn patient refused to wear the elastic bandage he prescribed. Tkach also complained that "I can't get this man near a hospital," and he had no success on that score last week.

Nixon's ailment is a common one that annually afflicts more than 300,000 Americans. Thrombophlebitis is an inflammation of a vein (phlebitis) accompanied by a clot (thrombus) that has formed in the vein. It may occur anywhere in the body, but is most common in the legs, where clots seem to form more easily. People who sit or stand for long periods

are particularly susceptible, as are patients recovering from childbirth or surgery—one reason doctors get them out of bed as soon as possible. Once one is afflicted, however, bed rest (with the limb elevated) is usually the best therapy.

Anticoagulant drugs are often used to keep the clot from growing and therefore allowing it to be reabsorbed or to stay "fixed" to the vein wall, as Nixon's earlier clot has done. Although not in itself a serious ailment, if the deep veins are involved, thrombophlebitis can be dangerous because of the threat that a piece of the clot may break off and travel to the lungs, possibly causing death.

Nixon's mental and emotional state is difficult to assess, and is still the subject of conflicting reports. "Everyone is searching for clues," David Eisenhower told *TIME* last week. "He walked the Red Beach alone countless times in his 5½ years as President. That he is walking the Red Beach in solitude now does not mean that he is a broken man." Those who visit Nixon to discuss future projects such as his memoirs or the Nixon Foundation have found him "direct of mind" and "alert," but others describe him as "deeply depressed" and "very tired" and occasionally distracted.

On returning from San Clemente, Dr. Tkach provided the most pessimistic assessment of all. Nixon "is a ravaged man who has lost the will to fight," he said. Tkach added that he had agreed to let Nixon stay at home because the former President had told him: "If I go into the hospital, I'll never come out alive."



NIXON ON THE BEACH NEAR VENTURA, CALIF., LAST MONTH



clad" and conviction was almost a certainty. Being pronounced guilty by a jury would clearly have been an additional, if justifiable humiliation for Nixon. So Nixon does benefit greatly from Ford's generosity. But the absence of any admission of criminal guilt by Nixon and the granting to him of practical control over all his tapes and presidential papers leaves serious, unanswered questions about precisely how, if at all, the nation benefits.

Gradually, and chiefly through Buchen, there emerged some additional but still unsatisfactory explanations of the Ford decision. When Ford contended at his Aug. 28 press conference that it would be "unwise and untimely" for him to pardon Nixon before any charges had been brought against him, aides said that he was simply unaware he had the power to pardon before indictment, trial and conviction. Just two days later, on Aug. 30, he asked Buchen to study that question. Buchen quickly discovered, as any reader of informed legal speculation in newspaper accounts at the time had also learned, that Presidents had exerted such power in the past. According to this explanation, Ford had also been informed that Jaworski was about to indict Nixon for a whole series of crimes. Since there was doubt that the ex-President could get a fair trial, and since Ford had decided in any case to pardon Nixon at some point, there was no reason to wait. "Mercy is never untimely," said Buchen.

Single Indictment. The Ford aides said that they could not explain his insertion of a reference to Nixon's health in the pardon announcement. The advance text did not contain it. They were aware that Ford had been concerned about published reports of Nixon's moody emotional state, but they insisted that neither the physical nor mental health of the former President was the major influence on the timing of the pardon.

There were problems with these explanations. The presidential pardoning power, including Nixon's authority to pardon himself before leaving office, had been widely discussed, so it seemed unlikely that Ford was all that unaware of his authority. Jaworski, moreover, was not poised to throw the book at Nixon. He was prepared to seek a single indictment for conspiring to obstruct justice in the cover-up—but not until the conspiracy-trial jury had been selected and sequestered. To the contrary, Jaworski had submitted to the White House, at Buchen's request, a memo from his top deputy, Henry S. Ruth Jr., citing ten other areas of investigation of Nixon but stressing that "none of these matters at the moment rises to the level of our ability to prove even a probable criminal violation by

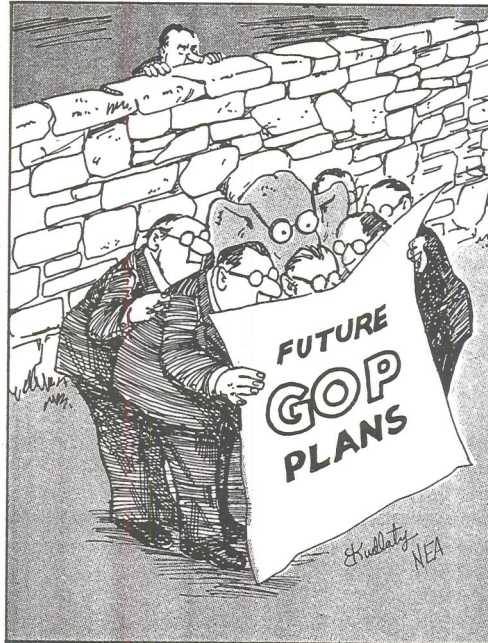
Mr. Nixon." At no time did Ford or his aides ask Jaworski his view of a Nixon pardon.

As a full and persuasive explanation of the Ford decision remained elusive pending Ford's press conference this week, a number of theories evolved in Washington, none of them supported by convincing hard evidence. Among them:

THE FORD GAFFE THEORY

Motivated primarily by genuine compassion for Nixon, Ford took a superficial look at the other factors—the legal ramifications, the political impact, the public reaction—and failed to think them through. Buoyed by his honeymoon reception and seeking a Trumanesque reputation for decisiveness, he acted immediately and impulsively on his determination to pardon Nixon. If eventually he was going to pardon him, as he had in effect indicated he would in his Aug. 28 press conference, then why not now? A diehard defender of Nixon's innocence until the ample contrary evidence became unchallengeable, Ford by this theory appreciated neither the seriousness of Nixon's transgressions nor the prevailing public concern that justice should run its course at least until all the truth is out.

KUDLATY—NEA



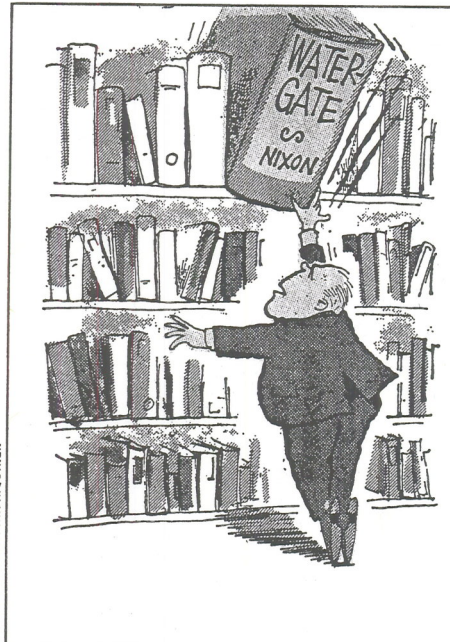
Stonewalled.

Once he opened negotiations with Nixon, Ford's emissary, Washington Attorney Benton Becker, proved no match for Nixon's wily attorney, Herbert J. ("Jack") Miller Jr., or for the hard-nosed Nixon aide Ronald Ziegler. The Nixon protectors spurned all suggestions that Nixon confess or surrender control of his tapes. Although Nixon had no practical bargaining leverage, Ford meekly yielded. Columnist Mary McGrory wrote last week that "Ford is still Vice President where Nixon is concerned." Ford does indeed have a rep-

utation for speaking before an issue is thought through, and the fact that he apparently consulted very few people on the pardon makes this theory more believable.

THE NIXON HEALTH THEORY

Ford had been advised that Nixon simply could not stand the suspense of worrying about a potential indictment or the strain of a trial if one were eventually held. Both current Ford Aide Alexander Haig and former Nixon Counsel J. Fred Buzhardt had expressed their concern to Ford about Nixon's emotional problems, which were beginning to manifest themselves in physical ailments. Ford, whether accurately or not, came to believe that Nixon was seriously ill, deeply depressed and might even die unless he was soon relieved of some of his legal worries. Nixon's doctors did confirm a new blood clot last week (see box page 17), but part of Nix-



AUTH—PHILADELPHIA INQUIRER

"Now to shut the book on Watergate."

on's pain and discomfort is clearly the self-inflicted result of his reluctance to obey his doctor's advice for treating his thrombophlebitis. Ford's interjection of Nixon's health into his speech is the best evidence in support of the Nixon health theory.

THE PREVENTIVE POLITICS THEORY

Once Ford learned that a Nixon trial would probably not begin until late in 1975 and that appeals might take even longer to resolve, he knew that he might face the pardon issue uncomfortably close to his own campaign for election to the presidency in 1976. Rather than raise all of the old Watergate divisions through a pardon then, he decided to act now, clearing his personal political decks of the Nixon issue well in advance, freeing himself from having questions on Nixon raised at every press conference. There is no evidence for this the-

ory at all, other than Ford's manifest desire to win election in his own right and the fact that he is a highly political animal.

THE ATOMIC BOMBSHELL THEORY

This lurid theory postulates the existence of some as yet unimagined crime or act of Nixon's, documented somewhere in the mass of tapes and papers of his presidency—a veritable atomic bombshell compared with the various shocking concussions set off at intervals in the Watergate investigation. Both Ford and some newsmen have been reliably informed that there are no further startling revelations in the 55 tapes that Nixon was required by Judge John Sirica and the Supreme Court to yield to Jaworski. But conceivably there might be some "White House horror" in the thousands of feet of tape not yet heard by investigators but known to Nixon and his aides. In the vivid imag-



inations of the proponents of this theory, such an atomic bombshell could be anything from Nixon's salting large amounts of campaign funds into a private Swiss bank account to some foreign act that might destroy U.S. relations with another country for years or inflame an enemy. This theory is pure speculation; yet the possibility that Ford acted to prevent other disclosures of a broader national interest has been enhanced by some tantalizing Ford remarks. He told a meeting of Republican congressional leaders last week that "I hope this can become clear later," adding mysteriously that Jaworski was under court order not to discuss the situation. "Perhaps some day we may know," Ford mused. At week's end he told a group of G.O.P. gubernatorial candidates that he "might be able to explain in the not too distant future a number of things" involved in his decision.

THE SECRET DEAL THEORY

There is no shred of evidence to support this theory: that Nixon made Ford's elevation to Vice President last December conditional upon a promise to pardon Nixon if he were ever forced to resign. Yet such have been the ravages of the Watergate era that this is one of the most pervasive speculations wherever political skeptics gather, whether on campuses, in barrooms or in board rooms. Revelations that Nixon and his aides had discussed presidential pardon both early and late in the Watergate chronology have reinforced, no doubt unfairly, the notion that Ford too might



"You're right . . . a Lincoln you ain't."

crassly have fallen into the same way of thinking in order to assure his own promotion. David Eisenhower, for example, reported last week that unspecified Nixon associates had urged Nixon to pardon himself before resigning. "Think of yourself; pardon yourself; you can do it," Eisenhower said Nixon was urged. "Mr. Nixon wouldn't hear of it," Eisenhower added. "He was offended." Quite convincingly, Eisenhower also argued that "the presidency came to President Ford with no strings attached."

Wholly apart from Nixon's pardon and the theories of why Ford may have offered it so soon, TIME has learned that, at one time, the former President did indeed promise pardons to others. On April 29, 1973, in a tense conference at Camp David, just hours before he persuaded his two most trusted aides, H.R. Haldeman and John Ehrlichman, to resign, the then President assured them: "You don't have anything to worry about—I'll take care of you."

Some 16 months later, as Nixon was about to resign, the two aides tried to exact the fulfillment of that promise, but Nixon reneged. Haldeman and Nixon talked on the telephone on Wednesday, Aug. 7, and Haldeman asked for a meet-

ing at which he and Ehrlichman would make a last-minute appeal for their pardons. "I just can't see you," replied Nixon. "Please don't come over here. Handle it through Haig."

Soon thereafter, Haig got a call from Haldeman. The general asked Haldeman to hold the line, rushed into Nixon's office and asked him what to do. Nixon told Haig to hear Haldeman out but that he would not talk to Haldeman. Haig hurried to the office of James St. Clair, at the time Nixon's chief Watergate defense attorney. St. Clair advised that any citizen had the right to appeal for clemency. Haig asked St.

Clair to monitor the conversation. Haldeman's pitch was brief, citing the difficulty of getting a fair trial. There was no threat of blackmail, although given the circumstances, the approach could have seemed ominous to Nixon.

On St. Clair's instructions, Haig advised Haldeman to put his appeal in writing. Haldeman and Ehrlichman's attorneys promptly submitted a memo. But Nixon was irritated by the whole incident, thought it was a bad time to pressure him, considering his own difficulties, and rejected any pardon. Ehrlichman tried a different tactic, telephoning Friend Julie Eisenhower, but he made no better progress. Sourly, and with no supporting evidence, one associate of the two aides concluded: "It's possible that Nixon turned his back on Haldeman and Ehrlichman because his own pardon deal was set and he didn't want to queer it by pardoning them at the last minute."

Whatever the damage done to Ford's standing by his clemency for Nixon—and much of it seems ultimately repairable—the controversy also hurt members of Ford's staff. As the only member of the Ford inner circle known to have supported the President's decision before it was announced, former Nixon Hand Alexander Haig was sullied. While Haig belittled his own role in that decision, other staffers resented the Nixon holdover and suspected his influence. Haig has been in frequent telephone contact with Nixon and Ziegler, talking to San Clemente at least three or four times weekly. He has also been constantly at Ford's elbow. "We've got to get him out of there; he's got to go," declared one Ford associate.

Scar Tissue. Haig fully expects to be out of the White House within a week or two and en route to his new post as Supreme Commander of NATO. He recognizes the hostility within the Ford staff. "I feel like a Martian mutation—I've got so much scar tissue," he says wryly. While Haig performed heroically in holding Nixon's White House together in the last days and helped persuade Nixon to resign, suspicions of the general's pro-Nixon sentiments are not

groundless. He had, after all, helped push the first special prosecutor, Archibald Cox, out of office after playing a devious role in the phony Stennis compromise on the Nixon tapes. He had also managed to disregard much of the evidence against Nixon until it was too devastating to ignore. In returning to the Army, Haig now faces considerable Pentagon resentment from officers who feel that he has been too politicized for the Army's good.

Also injured during the hectic week was the silver-haired, mild-mannered Buchen, who tried to brief reporters on the pardon decision, but seemed uncertain and unaware of the full implications (see THE PRESS). When asked how the pardon would affect the trial of the Watergate cover-up defendants, Buchen replied: "That is the problem of Mr. Jaworski and the judges." It apparently was Buchen who also proposed the dubious choice of Becker as the intermediary with Nixon's aides. Becker, 36, who had worked in the Justice Department in 1966 and 1967 and was later an Assistant U.S. Attorney in Washington, is under federal investigation for income tax evasion. He had previously helped then-Congressman Ford in his ill-advised attempt to impeach Supreme Court Justice William O. Douglas in 1969. Perhaps the only reputation that was enhanced during the whole episode was that of the man who left Ford's staff, Press Secretary J.F. terHorst. His resignation on principle was in the refreshing style of two of Nixon's Saturday Night Massacre victims, Attorney General Elliot Richardson and his deputy, William French Smith.

If the political crisis raised troubling questions about Ford and his hastily assembled staff, it may also have performed a costly but positive function in warning of those weaknesses. In a sense Jerry Ford had now experienced his own Bay of Pigs and may have discovered, at considerable cost, the wisdom of consulting more widely and assessing his future major moves more carefully. In dealing with Nixon, Ford could perhaps have tried harder to get a greater concession of wrongdoing. But there is little likelihood that Nixon could ever bring himself to admit full guilt, though that guilt has been adequately documented by the House Judiciary Committee. Even if indicted, he probably would have fought fiercely to seek an acquittal rather than plea-bargain, Agnew-style. Indeed, Illinois Republican Congressman John Anderson offered a cutting observation last week. "Why were we ever stupid enough to think that this awful man would fade away like one of MacArthur's old sol-

diers?" he asked. "He was always going to be dragged kicking and screaming into oblivion."

Ford's deal with Nixon on custody of the former President's tapes and papers was more arguable. A ruling by Attorney General William Saxbe that Nixon could claim them as personal possessions can still be challenged. While past Presidents dating back to Washington have laid claim to such documents, the practice is based on custom, not law. Why official papers produced at public expense ought to be considered private property has never been persuasively argued. Nixon's position, moreover, is unique. "I don't recall any criminal investigation being in progress



HAIG & FORD ON WHITE HOUSE GROUNDS LAST WEEK
The scar tissue resembled a Martian mutation.

at the time Washington gathered up his papers and left office," observed a G.O.P. lawyer in Washington. Ford, however, was probably relieved to escape any further responsibility for those much sought-after tapes.

Although the tapes arrangement may yet be challenged, the pardon is now history. Ford, in fact, still insisted that his decision was right, despite the outcry. But there were strong signs last week that, partly as a result of the pardon, Congress will not meekly accede to Nixon's request for some \$850,000 in transition funds, as endorsed by Ford and urged by a compliant General Services Administration. GSA Administrator Arthur F. Sampson, a Nixon appointee who had never objected to any of the lavish Government-financed improvements to Nixon's San Clemente

and Key Biscayne properties, ran into a flurry of objections as he sought to justify that request before subcommittees of both the House and Senate.

Sampson was unable to make a persuasive case on why Nixon is seeking some \$300,000 more for eleven months of support than was given Lyndon Johnson for 18 months after he left the presidency. The total request includes the \$450,000 allowed under the Presidential Transition Act of 1963 for travel, office, staff and other costs to help a former President adjust to private life. It also includes another \$400,000 under the Former Presidents Act of 1958, which provides overlapping outlays for some of the same expenses. The presidential pension of \$60,000 a year is included in this and is mandatory, as is \$96,000 for staff salaries, but Nixon has submitted a budget for some \$250,000 that would have to be approved by Congress. Originally this broke down as follows: office furniture and equipment, \$65,000; travel, \$40,000; communications, \$21,000; printing, \$10,000; office supplies, \$5,000; personal benefits, \$8,000; miscellaneous, \$100,000.

Snow Job. Sampson had altered that proposed budget to curtail the unsupportable \$100,000 allocation for miscellaneous expenses. In seeming exchange, however, he added a \$110,000 item for a special vault to house Nixon's tapes and papers at Laguna Niguel, within 20 miles of San Clemente.

Somewhat reluctantly, Sampson revealed that no fewer than 21 people are now serving Nixon on their normal Government salaries, amounting to \$450,000 a year. They include his personal maid and valet, as well as such well-paid aides as Ziegler (\$42,500), Speechwriter Raymond K. Price Jr. (\$40,000) and Secretary Rose Mary Woods (\$36,000). In addition, all of the former Washington-based employees now assigned to Nixon draw \$40 a day for meals and lodging. Sampson estimated that Secret Service protection of the ex-President will cost an additional \$622,000 a year.

Commenting on the Nixon budget, New Mexico Senator Joseph Montoya observed that Sampson must have experienced "quite a snow job" when he drew up those figures in a conference with Nixon aides at San Clemente. "How do you put Nixon in the same category with those Presidents who have served this country with honor?" asked Ohio Congressman Louis Stokes. Sampson defended the expenditures as necessary so that the nation will secure "the full value of his records and the full benefit of his experience." The request is expected to be slashed sharply.

While negotiating effectively with

Ford, Nixon was rebuffed on another front as he struggled to get his personal affairs in order. His perfunctory resignation from the California Bar Association was opposed by that group on grounds that his letter did not even concede that he was under investigation in disbarment proceedings. The turndown keeps that investigation alive, unless it is overruled by the California Supreme Court. Nixon contends that he has no plans to practice law and intends also to resign from the New York Bar Association. It too has initiated a preliminary disbarment probe and is likely to echo the California action if Nixon attempts to resign in similar fashion.

If Nixon's troubles were still far from over last week, so were those of six of his former White House and political associates. As expected, their attorneys pleaded with Judge John J. Sirica to dismiss the charges or at least delay their trial because of all the adverse publicity generated by the furor over the Nixon pardon. Also as expected, Sirica denied the motions. There may be further appeals, but the trial is now scheduled to begin on Oct. 1.

Day in Court. The still-unresolved question is how Nixon will be treated in that trial. He has been summoned as a defense witness by Ehrlichman, but could conceivably plead the Fifth Amendment protection against self-incrimination in that role. His lawyers could argue that, while federal prosecution has been banned by the pardon, state prosecution is still possible. That is highly unlikely and such a Nixon plea would be shaky, since the trial questions need not delve into any Nixon activities other than the cover-up conspiracy. Nixon could also be summoned as a prosecution witness and be granted specific immunity against use of his testimony in other jurisdictions. As a prosecution witness, he could be asked questions going beyond topics that the defendants wish to introduce. Judge Sirica could subpoena Nixon as a court witness, further expanding the range of queries. Unless Nixon can satisfy Sirica that he is medically incapable of appearing, his day in court still looms ahead.

In the understandable concern shown by Gerald Ford over Nixon's personal fate, the larger national interest was submerged. Yet it is not too much to hope that Ford, jolted by the equally understandable objections to his high-handed action, now appreciates the larger perspective. If he does not now join in those efforts to see that the full truth of America's most devastating political scandal is preserved and published, he runs the high risk that his own historical record will be linked to that of the discredited President who selected him as his successor. It is a fate that the nation, for its own sake and his, does not wish upon the 38th President of the U.S., whose healing skills, because of his first mistake in office, are more than ever required to exorcise Watergate.

THE PRESIDENCY/HUGH SIDNEY

"The Truth Shall Make You Free"

When the historians look back to these weeks, they may find that the worst error was Richard Nixon's. Right now, the egg is on Gerald Ford's face. But Nixon accepted the pardon that Ford offered. Once again Nixon has miscalculated almost everything and everybody. He has charted himself a course straight into the sloughs of history.

It is a pathetic thing to watch, but there apparently is some internal mechanism within Nixon that will not allow him to perceive reality. The Watergate record is a sequence of similar bad judgments. It was only a "third-rate burglary." Tell the people nobody in the White House was involved. Blame it on the CIA and national security. That will stop it. The American people will soon tire of the whole affair. Sam Ervin's committee won't last long. Nobody can really understand the complexities of the case. The House will never impeach. The Senate will never convict. At each turn, Nixon's contempt for the intelligence of the citizens he governed and his failure to comprehend their basic decency led him further into crime.

And from behind the walls of San Clemente the delusion goes on. Richard Nixon is not escaping anything. He has fed his Watergate cancer. He has cast himself for his remaining years as an unrepentant criminal. He must now live a continuing cover-up.

The lesson of human experience is that there are only two roads to historic rehabilitation for men caught like Nixon. One is to stand trial by a jury of peers, accept the verdict and whatever punishment may be meted out. The other is to make a full confession. Nixon has rejected both.

In the midst of Watergate the men around the former President used to talk about some kind of thunderclap that would sweep away the whole mess by the next dawn. They tried speeches, statements, overseas trips and transcripts. None of it worked.

But Nixon goes on in his special fantasy, searching for the miracle. His statement after the pardon about having made "mistakes" in dealing with Watergate is the same old line. Others were at fault. All he did was make a few procedural and administrative errors. One can almost hear the onetime words of Ron Ziegler that "contrition is bullshit," or Nixon's own assessment of the Republican Judiciary Committee members who turned against Nixon when the last transcript revealed his lying. "Soft bastards," he said.

They talk around San Clemente about Nixon's getting back into public life, telling his story to the people. His millionaire friends reportedly are ready to grease the way. Once again, the mirage rises on the horizon that a speech here and there, a book or two and some visits by Billy Graham will bring Nixon back to life. What is more apt to happen is that the full guilt of Watergate will take root on his doorstep and grow. In all likelihood his alienation from his fellow Americans will get worse. The polls indicate that they perceive him not only as one who violated his presidential trust but, in the end, as a man of such shallow courage and character that he could not confess his own fault. A last act of honor in this tawdry drama could raise the estimate of Nixon in history, could at least give a saving footnote to the otherwise black episode. Apparently that is not to be.

San Clemente is called "Elba West" by some, and the term becomes less of a jest as time goes on. There is no accurate measure yet of the internal disintegration of Nixon himself. But the toll being taken among those men who served Nixon during the Watergate crimes is terrible. Wives have turned against husbands. Children have turned against fathers. Jobs are difficult to find. Immense legal debts threaten to burden families for the rest of their lives.

Around Capitol Hill, some concerned men have predicted that Richard Nixon will be giving morality lectures by spring. But John Doar, the quiet lawyer who directed the Judiciary Committee's investigation, came closer to the mark. He said that the committee's report stands as an inviolate and irrefutable statement of Nixon's guilt. That report is already on the shelves of history, a burden that will only be lightened for Nixon when he acknowledges it.

WALL OUTSIDE RICHARD NIXON'S CASA PACIFICA IN SAN CLEMENTE

