

Origin of Pardon Idea in Question

By Walter Pincus
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J. Fred Buzhardt, President Nixon's White House counsel, says neither he nor the White House staff originated and then proposed to Nixon the idea that he be pardoned by his successor after resigning.

Buzhardt's recollection disagrees with President Ford's recounting of events to a House Judiciary subcommittee on Oct. 17, 1974.

The President testified that Aug. 1, 1974, a week before Nixon resigned, White House staff chief Alexander M. Haig, Jr. told him "a pardon to the President, himself, should he resign" was one of several options which "were being advanced by various people around (Nixon) on the White House staff."

The significance of the disagreement lies in the fact Buzhardt's version raises the possibility it was Nixon, himself, who developed the pardon-after-resignation idea and then sent Haig to discover Mr. Ford's attitude.

In a recent interview, Buzhardt, who directed Nixon White House work on the pardon issue, said the staff carefully limited itself only to exploring actions that could be taken by the President.

Buzhardt said the staff avoided discussing "any action by the (then) Vice President." Any pardon after resignation had to come from the new president.

If the White House staff did not develop the option of Nixon resigning and a pardon then coming from then-Vice President Ford, who did?

Buzhardt said: "It was obvious that a successor President has the pardon power...but it is something you could not explore very much...It was a question of whether he chose to exercise it and that would have been pretty difficult to speculate on."

President Ford, during his Judiciary panel testimony, recalled that Haig, in the Aug. 1, pre-resignation meeting, "wanted...my attitude on the options of resignation," including the one that involved a Ford pardon for Nixon.

Asked about that Ford testimony, Buzhardt said, "I don't know if Al (Haig) was rattling off every idea, every possibility. I would assume that he would have discussed with President Nixon this matter before going to the Vice President because it was my observation that he just didn't make decisions on his own without taking them up with the President, at this time or any other time."

Haig would not comment on Buzhardt's assertions. A spokesman at NATO headquarters in Brussels, where Haig is now commanding general, said the former Nixon staff chief had "consistently declined" to discuss his White House duties "except in an official forum" and "does not intend to deviate from that policy at this time."

Nixon has also refused to comment on events surrounding his leaving office.

According to Buzhardt, serious discussions by the White House staff on Watergate-related pardons took place well before July 24, 1974, the day the Supreme Court ordered Nixon to turn 64 White House tapes over to Judge John J. Sirica.



J. FRED BUZHARDT
...early discussions

On the day of the court decision, Buzhardt said he proposed to then President Nixon, in a telephone call to Haig and White House lawyer James St. Clair, that the entire issue could be "mooted" if Nixon pardoned all the Watergate defendants as well as himself and then resigned.

Buzhardt said he had researched the legal questions surrounding presidential pardon power and believed it could be applied prospectively—even to those situations where no criminal indictment had yet been returned.

According to Buzhardt, Nixon took his suggested course under advisement though he and the staff recognized it was "drastic."

In the week following the

court decision, while the House Judiciary Committee held its public hearings and voted three articles of impeachment, the White House was turning over to Sirica the first group of subpoenaed tapes. In a second batch was the tape of June 23, 1972—later termed the "smoking gun."

On Aug. 1, the day before the June 23 tape was to be given to Sirica, President Nixon decided he would also give a transcript of that tape to the House Judiciary Committee.

Buzhardt said he and other staff members had advised Nixon that the June 23 tape contents—which proved earlier presidential statements on Watergate were false—would be "devastating" and have what the former White House counsel described as "a terminal" effect.

At the meeting with Haig when he decided to send the tape transcript to Congress, Nixon authorized his staff chief, in Buzhardt's words, "to bring the Vice President up to date."

Buzhardt said he met with Haig just prior to the latter's session with then-Vice President Ford. At that meeting, Buzhardt and Haig discussed the potential Capitol Hill reaction to the tapes, resignation and Buzhardt's opinion that a president could give a pardon for crimes not yet the subject of criminal indictments.

According to Mr. Ford's House subcommittee testimony, one pardon option presented by Haig was similar to Buzhardt's July 24 suggestion: "pardoning various Watergate defendants; then himself, followed by resignation."

"The question of whether the President could pardon himself," Mr. Ford testified, was also discussed. Haig said, according to the Ford statement, "it was his understanding from a White House lawyer that a President did have authority to grant a pardon even before any criminal action had been against an individual..."

The final option for Nixon offered by Haig to Ford, according to Ford's House subcommittee testimony, "was a pardon to the President himself, should he resign."

That, Buzhardt maintained, was not his idea nor one that came from the staff.

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